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The University of Southern Mississippi

REBEL YALE: YALE GRADUATES AND PROGRESSIVE IDEALS AT THE
UNIVERSITY OF MISSISSIPPI LAW SCHOOL, 1946-1970

by

Jennifer Paul Anderson

Abstract of a Dissertation
Submitted to the Graduate School
of The University of Southern Mississippi
in Partial Fulfillment of the Requirements
for the Degree of Doctor of Philosophy

May 2015

ABSTRACT

REBEL YALE: YALE GRADUATES AND PROGRESSIVE IDEALS AT THE UNIVERSITY OF MISSISSIPPI LAW SCHOOL, 1946-1970

by Jennifer Paul Anderson

May 2015

The University of Mississippi School of Law (Ole Miss Law) was the fourth public law school founded in the United States. The school was established to prevent men from leaving the state for legal education due to fears that they were being indoctrinated by eastern schools where ideologies were not consistent with those of Mississippi. One hundred years after her founding, Ole Miss Law entered into a period of turbulence as race and politics clashed on campus. From the time of the *Brown* decision through the Civil Rights Era, the deans and law professors at the law school were subjected to multiple waves of attack by members of the legislature, the Board of Trustees, the White Citizens' Council, and private citizens. All had earned advanced law degrees at Yale University School of Law while studying under the Sterling Fellowship. However, the prestige associated with the Ivy League law school would eventually become viewed by Mississippians to be synonymous with liberalism, and progressive ideals regarding race and states' rights were not compatible with traditional ideals held by the majority opinion of Mississippians. Using the concepts of space and place, this study explores the events that unfolded at Ole Miss Law School during this era of progressivism. This work locates the spaces and their associated ideologies as situated in and among the political and educational places of Mississippi and demonstrates that as

race and politics in the state were inseparable, that space, place, and race co-evolved on the campus of Ole Miss Law.

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The University of Southern Mississippi

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by

Jennifer Paul Anderson

A Dissertation
Submitted to the Graduate School
of The University of Southern Mississippi
in Partial Fulfillment of the Requirements
for the Degree of Doctor of Philosophy

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May 2015

DEDICATION

This dissertation is dedicated to my father, Charles Paul Anderson, who taught me to live life with intent and to create a space in my heart for everyone.

ACKNOWLEDGMENTS

I would like to express my deepest appreciation to my mentors whose contributions to me and to this dissertation made it possible. First, I wish to thank my dissertation chair, Thomas O'Brien. It was he who taught me the beauty of history as a study. For that, I will never be the same person. There are not words enough to express my gratitude to him for his guidance, time, and dedication to me and to this work. More importantly, over the course of this study, he allowed me the freedom to make mistakes, and from them, to learn.

To Lin Harper, you have been the greatest supporter, mentor, and friend. I cannot count the times when I questioned myself and thought of your wisdom, encouragement, and advice. Your words got me through this dissertation. I will be forever grateful.

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Finally, to Aubrey Lucas, for a little girl from southern Mississippi, it is a great honor to have the President Emeritus of my hometown university to serve on my dissertation committee. It is also unnerving. Thank you for your kindness throughout my doctoral work, for your guidance, and for having the confidence in me to pursue my life-long dream.

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CHAPTER I

INTRODUCTION

The path of James Meredith to gaining admission to the University of Mississippi (Ole Miss), which began in 1961, is perhaps the most well-known, well-documented event in the state of Mississippi's higher education history. However, Meredith's struggles are but a part of a larger story of the black struggle to gain access to previously all-white colleges and universities in the state. Before Meredith came the unsuccessful attempts of Charles Dubra, Medgar Evers, and Clennon King to gain admission to Ole Miss. Elsewhere, Clyde Kennard failed in his attempt to be admitted to Mississippi Southern College (now The University of Southern Mississippi),¹ and thirty-eight years after the US Supreme Court ruled to end the segregation of public schools in the first *Brown v. Board of Education* (1954)² case, the high court handed down a decision that the State of Mississippi had not taken sufficient action to ensure an end to the de jure segregation of its public institutions of higher education.³

The struggle between proponents of integration and segregation in Mississippi's universities did not begin and end with James Meredith. Nor did the state's institutional struggles over race and racial identity occur in isolation from the rest of the state, as politics, resistance, progressivism, and the media all have a role in these struggles. Likewise, the struggles in Mississippi's institutions were a part of a larger national struggle to create a new racial identity⁴ and of institutions to create new places and spaces of educational equality and opportunity for all races.

Civil Rights in Ole Miss Law

Before Meredith's admission to Ole Miss, the law school had been in upheaval because Professor William Patrick Murphy engaged in behaviors that were considered by the Board of Trustees to run counter to the state's conservative ideals.⁵ After the *Brown* decision, Murphy insisted—both in print and in the constitutional law class he taught at Ole Miss—that because the *Brown* decision was the law, universities would have to comply and integrate. In addition, Murphy was a member of the American Civil Liberties Union (ACLU), a membership that many Mississippi citizens believed was an indication that he was too radical to serve in an institution of Mississippi. Shortly after Murphy left the law school, the school's dean, Robert J. Farley, came under pressure of the Board of Trustees due to his support of Murphy and because he too spoke publicly that the *Brown* decision would have to be followed.⁶

After Farley left the university, the deanship was offered to Joshua Morse III, an attorney from Poplarville. Morse, a 1948 graduate of the law school, was a close, personal friend to Malcolm Metz (M.M.) Roberts, a member of the Board of Trustees (Board), who had been appointed to the Board by Ross Barnett, the conservative Governor.⁷ Thus, it was viewed by many that Morse was a safe choice. It was believed that he would restore order and conservatism in the law school.⁸

Morse spent his first official year as dean away studying at Yale University (Yale) on a prestigious Sterling fellowship.⁹ When he returned, Morse recruited graduates from Yale, Harvard, Columbia, and New York Universities to teach and to be guest lecturers at Ole Miss School of Law. He also secured grants from the Ford Foundation, in part, to recruit students, many of whom turned out to be black. He and his teachers from the

North, who came to be known as the *Yalies*, founded the state's first low-income legal assistance program. Under the leadership of Morse, new courses about civil rights were added to the curriculum. Also, with Morse's approval, the law school Speakers' Bureau, a student organization, hosted Senator Robert Kennedy to address the students, faculty, and administration on campus, an event that proved to be controversial, not only on the Ole Miss campus but across the state. Like Farley and Murphy, Dean Morse proved to be far too liberal to decision-makers in the state. Because of these acts and others, Morse too was eased out. Shortly after Morse left the law school, many of the *Yalies* would suffer the same fate.

Statement of the Problem

The rise and fall of Dean Morse garnered not only the attention of news outlets in the state but also the attention of national news outlets such as *The New York Times* and *Time Magazine*.¹⁰ In fact, *Time* magazine reported about Morse and the law school three times between 1966 and 1969. *Ebony* magazine also featured the law school in 1966. In the early 1970s, John Egerton, a freelance journalist who had worked in public relations for the University of Kentucky and the University of South Florida, wrote about these events at The University of Mississippi School of Law (also known historically as Ole Miss Law), describing the time, ironically, as a period in the school's history when it was one of the most progressive law schools in the country.¹¹ These stories are now archived and forgotten news pieces, yet they are reminders that *something significant happened*.

As with other institutional predicaments, such as the Meredith crisis and the Kennard scandal, this turbulent period in the history of the Ole Miss Law is closely linked to state politics in Mississippi. However, this story is largely unknown to

Mississippians. Additionally, scholarly analyses of the Ole Miss Law story do not exist. This leaves a void regarding public higher education in Mississippi. Also, no study of race in the state is complete without looking at the post-*Brown* political struggles in the Mississippi in relation to what was occurring nationally. In short, the history of race and politics in higher education in Mississippi remains incomplete.

This is not to say that there is no existing scholarship on Ole Miss Law and race in the 1950s and 60s. Chronicles of the events that both shook and shaped the history of the Ole Miss Law School have been offered.¹² Also, some of the happenings in the law school have been given passing mention in other works for which the university or the law school was not the centralized theme.¹³ Much of the scholarship on Ole Miss Law has been relayed in instructional histories and explained as isolated events. Much has been recorded in a vacuum, as if the various sub-stories do not relate to one another. Yet, these sub stories are part of a larger narrative inextricably tied to movements that transcended the borders of campus and of the state, especially in relation to massive resistance to integration in Mississippi. It seems to be clear that the university was enveloped in the interplay of race and politics, but this relationship, as it played out in the law school, has not been explored in its complexity and in one consistent narrative.

This was a period of great turbulence on university campuses throughout the South during which academic freedom was oft endangered. In fact, in October 1962, historian C. Vann Woodward wrote an article for *Harper's Magazine* about attacks upon academic freedom that had been occurring in southern colleges, both historically white and historically black institutions.¹⁴ Woodward reported about infringements at eighteen colleges, including a mention of harassment of the University of Mississippi by state

politicians that resulted in faculty firings and resignations. Specifically, Woodward mentioned the ousting of William Murphy.

The leadership of university administrators in handling these challenges is worthy of study. It is important to go beyond the disjointed *prima facie* accounts of the politics of academia in the university and to analyze them in relation to one another and in relation to events that were occurring across the state and throughout the nation. University leaders are subjected to not only inside forces, but also outside influences in university operations; therefore, understanding ways in which leaders have handled intrusion may add to the literature on race and higher education and also provide additional context for future administrators.

Justification

Writing a history of the Yalies at the University of Mississippi School of Law serves three distinct purposes. The first involves the historical perspectives of the story itself. The Meredith crisis is perhaps the best-remembered and most well reported story in the educational history of Mississippi. However, there are other stories that have been given only mention in scholarly literature. Massive resistance, politics, and the media collided in the South during the Civil Rights Era, often on college campuses, leaving institutions of higher education shaken, marred, and altered by the relentless fight of segregationists to resist the freedom struggle and to maintain their conception of southern identity. As these stories remain largely untold, the historical record of race and politics in higher education in Mississippi remains incomplete. Moreover, as politics are closely tied to the operation of educational institutions, it is important to understand how

conservatism has affected educational operations historically and how it may affect operations in the future. This study aimed to fill these gaps.

Second, while the study of race and politics in Mississippi is not new, historians have not explored in any great detail the various threads of progressive action in higher education in the state. Much of what is written attends to the conservative forces, but not the progressive ones. The researcher was interested in if or how progressive ideas imported into the state compared to or differed from the ideals among southerners who favored or were sympathetic to the integration of schools. Were northern integrationists more progressive than southern progressives, or, were their ideologies regarding race and class congruent with those of the liberal South? Exploring these questions and others will allow educational historians to better understand the persistent domination of conservatism in the state.

Third, although there was a keen interest in studies of segregation and massive resistance in the 1990s, much of the scholarship produced then linked resistance to modern conservatism rather than attending to the day-to-day maneuverings of the political and educational actors.¹⁵ Put another way, these studies have largely downplayed or ignored school politics.¹⁶ In contrast, this study attempts to understand the central players in events that occurred in and around southern institutions in the Civil Rights Era. What unfolded in the law school of Ole Miss during this time raise questions about the administration of educational institutions and the role that politics play in the functioning of a university. Public educational institutions have become subjected to decreasing government funding coupled with increasing governmental regulation of institutional operations. This brings to light questions pertaining to the extent to which

government influence is operative in public colleges and universities. Since education has become a mainstay in the modern political agenda, particularly at the state level, understanding the coevolution of education and politics provides us a trajectory of the possibility for educational policy in the future.

A Review of the Literature

This review of the secondary literature is divided into four major sections, although the overlap in the first three topics will become immediately apparent. The first section includes an overview of institutional history in Mississippi. The second includes brief mention of the wealth of literature pertaining to race relations and civil rights in the American South. In the third section is a review of Deep South politics before, during, and immediately after the period of time under study. Finally, the fourth section includes a review of literature regarding theoretical concepts that are applicable to this study.

Institutional History

It is important to mention not only the history of the University of Mississippi but of all of Mississippi's institutions of higher education and to understand how they came to be and how the state's institutions are situated in the nation's educational history. While no work is complete, David Sansing has contributed two works to the history of the educational institutions of Mississippi. First is an extensive chronology that provides a detailed view of the history of higher education in this state.¹⁷ Second, Sansing published a history of the University of Mississippi from its founding to the university's sesquicentennial year.¹⁸

Likewise, at the sesquicentennial of the law school, Michael De L. Landon, documented the history of the University of Mississippi School of Law from its

establishment as a law department at the University of Mississippi in 1854 through 2004.¹⁹ The book chronicles the expansion of the law program and its supplementary programs, the position of the law school in the state in relation to state and national politics, and racial struggles that plagued the law school during the Civil Rights Era. These works by Sansing and Landon are useful in providing details, but are primarily chronologies.

Nancy Cohodas, writing in the 1990s, does provide useful analysis and uses the history of Ole Miss as a backdrop to argue that integration has never been achieved in the university and perhaps in the rest of the nation.²⁰ The law school's deans William P. Murphy and Joshua Morse III are given very brief mention but are not comprehensively covered.

John Egerton has held the position in several essays that while institutions are often caught between politics and social progress, they also are part of the problem.²¹ The sentiment is resonant in James Silver's work, which gave the state an epithet as a "closed society"²² and also claimed that Ole Miss could not alleviate itself of social and political problems because it did not have "the moral resources to reform itself."²³ Silver, a history professor at the University of Mississippi, writing in 1966, held that historically, Mississippi's institutions of higher education have reinforced the racial orthodoxy of the state, rather than challenging it and serving as a platform for change in the state.*

* Shortly after the publication of *Mississippi: The Closed Society*, Silver left Ole Miss under the pressure of the White Citizens' Council and the Sovereignty Commission. He is perhaps the most widely known professor who left Ole Miss during the Civil Rights Era under political pressures because of the publication of his book.

Next, a review of the history of black schooling in the United States is also helpful in setting the stage at Ole Miss Law. An early account of historically black colleges and universities (HBCUs) in the United States was published 1993.²⁴ This work served as both an anthology of black colleges from the antebellum period to the time the book was published and included Roebuck's and Murty's own study of race on college campuses in the southeastern United States. A more recent work covers the genesis and evolution of HBCUs and devotes an entire section of the book to the Civil Rights Era as experienced in the HBCUs.²⁵ Brooks and Stark explore the motivations of black students to attend historically white universities, such as seeking access to better educational facilities and resources. Also, they compare and contrast the experiences of other minority races in higher education with those experiences of black students.

Finally, far less attention has been paid in the literature to the desegregation of institutions of higher education in the South than to the desegregation of elementary and secondary schools in the South. As suggested above, the desegregation of higher education is sometimes treated as a set of individual, isolated events, which Peter Wallenstein argues has effectively reduced the history of desegregation of higher education to a set of stories that have no power in creating change in institutions regarding race. Recently, however, scholars, including Wallenstein, have treated desegregation as a long process that began before *Brown* decision, notably in graduate and professional programs, and continued well after *Brown*.²⁶ Further, during this process, as Wallenstein points out, many of the pioneer black students were later expelled (as was the case of Cleve McDowell at Ole Miss), actions which in effect, returned a previously integrated school back to *nonblack*. As Wallstein puts it, "by 1965, in every

southern state, the process of desegregation had clearly begun. It was clearly also still underway.”²⁷

Works by Robert Pratt and Culpepper Clark have elucidated the *process* of desegregation at the University of Georgia and the University of Alabama, respectively.²⁸ Likewise, Amlicar Shalibazz has contributed to the literature an analytical history of the desegregation of the institutions of higher education in Texas from the time of the Civil War to 1965 emphasizing the black struggle in the state, rather than white supremacy.²⁹ These works lend themselves to analysis of desegregation not only at a localized level but on a regional level as well.

Civil Rights

It is impossible to reduce the secondary literature on the Civil Rights Era to a brief review, as it is perhaps one of the most well covered topics in American history. Contributing to the difficulty in reviewing the civil rights literature, as historian David Goldfield has demonstrated, is that race relations in the South are tied not only to skin color but to political, social, and economic ideologies that are constantly evolving.³⁰ While many studies of civil rights tend to isolate a single event or dimension of humanity or treat civil rights as a binary between race and something else, such as politics or economics, the notion that the civil rights struggle in the United States is a product of many interacting factors is not new.

Early accounts of the civil rights struggles in the 20th century found that segregation and ideologies regarding race were not dichotomized according to geography. C. Van Woodward’s text, *The Strange Career of Jim Crow* not only documented

oppressive conditions in the South but also noted that Jim Crow^{*} segregation originated in the antebellum North.³¹ Woodward also noted the difficulty in attempting to order and prioritize any component of the Second Reconstruction,[†] whether, economic, political, or social, “for all aspects were parts of a whole, and it is hard to imagine one without the other.”³² Similarly, in 1964, historian Howard Zinn wrote in his work, *The Southern Mystique*, that southern identity is merely a reflection of national identity, as if the South is staring into a mirror.³³ Unlike Woodward, Zinn did not take a pessimistic view toward the ability of the South to evolve, and he believed that the South had strong black leadership necessary to facilitate positive race relations. He also believed that continuous contact between blacks and whites was a given necessity in the South, as the proportion of blacks to whites in the region was far higher than in the North.

While the civil rights struggle began before 1954, the *Brown* decision was the impetus that led to an exodus of many its faculty members and administrators at Ole Miss Law. Richard Kluger’s history of *Brown* is considered to be the most comprehensive work on the history of the US Supreme Court case and is a mainstay in scholarly work.³⁴

^{*} For an explanation of the term *Jim Crow*, see page 46.

[†] The Second Reconstruction is a term coined by Woodward in *Strange Career of Jim Crow*. His view of Reconstruction is that the South had undergone a first reconstruction after the Civil War when the prevailing ideology of the South changed from slavery to segregation. The Second Reconstruction, according to Woodward, served to address political and economic ideologies regarding race that were largely ignored during the First Reconstruction.

Kluger traces the history of case law that led to the *Brown* cases and also documents cultural, social, and political attitudes that drove the Federal courts to become involved in integration. Another important work on the subject is by J.T. Patterson. Patterson's book, like Kluger's, chronicles the precursors to the *Brown* but focuses primarily on the fallout of the decision, including desegregation lawsuits and state and federal responses to the desegregation decree into the late 1990s. Patterson's work is equally broad in scope as Kluger's; however, it is less detailed.³⁵

A key element to the study of race relations in Mississippi during this period in time is The White Citizens' Council (Council), which was formed in 1954. The organization served as a major antagonist to integration not only in Mississippi but also throughout the South. The most complete work about the Council was written by Neil McMillen.³⁶ In this work, McMillen documents the rise and fall of the Council in the United States. He explores actions of individual council chapters in southern states as a piece of the larger puzzle of massive resistance to integration of public schools in the country during the Second Reconstruction. Council members propagandized themselves as peaceful protestors, but McMillen suggests that their actions did not always merit such description. Further, McMillen demonstrates that the portrayal of united front of the councils across the nation was illusionary, as individual council chapters differed in scope, purpose, and ideology. While the Council ultimately failed to thwart integration, McMillen argues that the organization was successful in sustaining other forms of resistance. The council used the middle-class status of its members to maintain political ties and effectively used propaganda, including college newspapers, to sway opinion on racial integration.

McMillen's work *Dark Journey* describes the Jim Crow South and efforts to maintain segregation from the perspectives of both races in the binary racial system that pitted white against black in the South.³⁷ In addition, McMillen illustrates that the custom of segregation in the Mississippi was a much stronger force than law. Literacy exams and poll taxes rendered blacks unable to vote, and the efforts of blacks to establish a parallel economy in the state to the white economy failed. Thus, McMillen argues, de facto segregation maintained a racial-caste system that survived well into the Second Reconstruction.

Along with the Citizens' Councils, the Mississippi State Sovereignty Commission (Sovereignty Commission or the Commission), formed during the governorship of James P. Coleman (1956-1960), was officially charged to "protect the sovereignty of the State of Mississippi, and her sister states from encroachment thereon by the Federal Government."³⁸ The Sovereignty Commission served as a watchdog organization to monitor civil rights activities in Mississippi. An early work about the Sovereignty Commission by journalist Leesha Faulkner focused on the agency's use of the public's fears of Communism to advance a segregationist agenda. Faulkner's Master's thesis on the Commission was completed before the Sovereignty Commission's files were released to the public in 1997 by the State of Mississippi.³⁹ While not benefiting from the collection of documents kept in the state archives, her work is a product of 41,501 documents that she acquired through a public auction.

The Mississippi State Sovereignty Commission's actions have been the subject of several works since the agency's files were unsealed in 1997. Archivist, Sara Rowe-Sims wrote the first of these.⁴⁰ While not analytical in nature, Sims' article detailed the people

involved in the Sovereignty Commission as well as the financial matters of the agency. Also, Sims discussion of the cyclical nature of political ideologies of the members of the Sovereignty Commission alludes to the fact that the degree to which the Commission was willing to be involved in the obstruction of civil rights was largely dependent upon the leadership of the Commission. After Sims, Yashiro Katagiri published a book that provides a comprehensive abstract (though no firm analysis) of the agency's activities from its inception until the time the agency ceased operations in 1973.⁴¹

The Media in Civil Rights

Laura Richardson Walton's 2006 doctoral dissertation looks at the civil rights struggle in Mississippi as played out in the media.⁴² She examines the use of propaganda by the Mississippi State Sovereignty Commission as well as the White Citizens' Council to further the cause of the state in blocking the integration of public schools. Additionally, Walton looks at counter-efforts to publically support integration made by a handful of small media outlets in the state that supported the *Brown* decision, such as Hodding Carter's newspaper, *Delta Democrat Times* and Hazel Brannen Smith's *Lexington Advertiser*, *Banner County Outlook*, and *Northside Reporter*.

A number of articles also have explored the link between the media in Mississippi and the activities of the Citizens' Council and the Sovereignty Commission. Clive Webb explores the "reverse freedom rides" campaign of the Citizens' Council that was initiated after the success of the freedom rides organized by civil rights workers.⁴³ John R. Tisdale explores a campaign initiated by the Sovereignty Commission to bring northern journalists to the state in hopes that the journalists would generate positive publicity for Mississippi.⁴⁴ Tisdale shows how the campaign failed and explores the impressions left

upon the journalists, which they later printed in Northern papers. Julian Williams explored the life of Percy Greene, the editor of the state's largest black newspaper at the time, the *Jackson Advocate*.⁴⁵ Williams found that Greene was utilized by the Sovereignty Commission to advance segregationist propaganda to the black community.

The use of print media and radio to publicly argue against or in favor of integration throughout the South has been the subject of recent scholarship by Gene Roberts and Hank Klibanoff. The authors trace the evolution of national press coverage of race relations from the publication of "An American Dilemma" by Gunnar Myrdal in 1944 to the media coverage of the assassination of Martin Luther King Jr. in 1968.⁴⁶ The black press developed and became a strong center for black protest during the pre-Civil Rights and the Civil Rights Eras. Despite this, Roberts and Klibanoff speculate that, in order for civil rights to be accepted, the white media outside of the South that had to report racial discontent and violence in the South.

Both *The Press and Race*⁴⁷ edited by David Davies, and Susan Weill's *In a Madhouse's Din*⁴⁸ demonstrate that the views of the journalists in Mississippi were not either segregationist or integrationist in nature but were composites of a variety of opinions of Mississippians toward race. As these works explore public opinion as expressed in Mississippi's presses, they are reflective of the fact that racial views in Mississippi at the time were far more complex than they were perceived by northerners and expressed in northern presses at the time, as well as more complex than is often believed by Americans today.

Brian Ward explored radio as a medium for racial progressives to get their message disseminated to the masses.⁴⁹ In Mississippi, Ward contends, this task proved to

be far more difficult than in other states, even in black owned and operated stations. As with print media, the White Citizens' Council and the Sovereignty Commission made the politics of broadcasting almost impossible to navigate, especially for stations intending to send a progressive message. Ward illustrated the hostility presented in radio toward civil rights workers by describing in great detail the radio reports heard throughout the state during the Meredith crisis at Ole Miss.

Progressivism in the South

Though segregationists dominated the South, home-grown progressivism in the South persisted long before it reached its apex during the Civil Rights Era. Understanding the variety of progressive positions about integration as well as the ways in which progressives evolved over time is important to understanding their role in the Civil Rights Era, especially to educational studies. Southern progressivism is a complex topic, as reformers were united neither in motivation or epistemology. Many were rather duplicitous in the ways they advanced the progressive agenda, like Alexander McKelway, a Presbyterian minister whose anti-child labor activism is attributed to resulting in the Keating-Owen Child Labor Act of 1916. McKelway was a reformer; yet he also was a staunch white supremacist.⁵⁰ Hugh C. Bailey explores five of these early reformers, including McKelway, as well as the legacy they left in education and in national politics.

Like James Silver, John Dittmer addresses Mississippi as a society but does so through the lens of southern progressives.⁵¹ Dittmer argues that while civil rights workers from outside the South facilitated the movement, it was the local people, organized on a grass roots level, which ultimately led to a shift in the perceptions of southerners regarding race. A similar perspective of the southern contribution to the Civil Rights Era

is taken by Charles Payne.⁵² Payne's work focuses on the local people of the Mississippi Delta, and he punctuates Medgar Evers as a public relations genius in bringing the civil rights struggles of Mississippians into the national spotlight while working as the press secretary for the National Association for the Advancement of Colored People (NAACP). Payne's book highlights two factors that are important to this dissertation, southern progressivism and the media's role in civil rights.

Finally, in a recent paper, Michael Dennis discusses southern progressives in state universities.⁵³ He argues that while southern progressives advocated for social reform and championed the university as a platform for reform, the progressives idealized positivism rather than humanistic ideals and social Christianity. In other words, the commercialization and modernization of the university subordinated tenets of classical education such as ethical and moral values. This, Dennis argues, prevented southern state universities from becoming agents of social change.

Politics in the South

There has been a tendency among scholars to assume that the identity of the South is largely united under the umbrellas of race and morality.⁵⁴ Because of this, the political makeup of the South is often viewed to be homogeneous, especially when one studies southern demagoguery. Southern demagogues themselves are of interest both politically and historically to the nation because of the central role they have played in national politics.⁵⁵ A prime example is Senator James Eastland from Mississippi who spoke publicly many times against the *Brown* decision and declared the decision itself to be unconstitutional. Eastland helped to organize many chapters of the White Citizens' Council as well as other segregationist organizations throughout the South.⁵⁶ Even though

there are themes that bind together the southern political identity, such as southern demagoguery, there are competing arguments among scholars regarding the nature of this question, so much so that it has been suggested by Charles Eagles that no unified southern political tradition exists.⁵⁷

The first work to shed some light on the one-party South was that of V.O. Key. In his seminal 1949 work, *Southern Politics in the State and Nation*, Key examined the voting patterns of southern states in order to draw inferences about politics of the South and how politics of the South fit into national politics. Key also interviewed over 500 southerners for his work and found that the South, while under a single-party system was heavily factionalized in both in the region and in states individually. Key also found that the degree of factionalism differed from state-to-state and that factions changed with the economies of the states as well as with racial relations.⁵⁸

More than twenty-five years later, Bartley and Graham utilized similar methods to Key's in order to analyze voting patterns after World War II through the Civil Rights Era. The authors were able to detect in the voting patterns a realignment of partisan politics (sometimes called *New South Politics*) in the southern states.⁵⁹ Likewise, Jack Bass and Walter DeVries patterned their work from Key, analyzing the same voting records of Bartley and Graham. Bass and DeVries also interviewed over 300 people for their work. While they were unable to demonstrate a pattern of New South Politics, their documentation of voting patterns is extremely thorough.⁶⁰

Joseph Crespino elucidates the rich and complex political identity, or lack thereof, of Mississippians.⁶¹ His study of white Mississippians from the time of the *Brown* decision to the election of Ronald Reagan, explores the many shades of gray that existed

in the racial ideologies of Mississippians, especially those ideals that were more accommodating than the staunch segregationist platform held by the Ku Klux Klan. One such ideology became known as *practical segregation*, the belief that the public image of the South as viewed in the arena of national politics was more important than blatantly stonewalling integration. These ideologies were held by and played out politically in Mississippi and, according to Crespino, greatly influenced the conservative counterrevolution of the Regan administration which devalued social programs and civil rights. Crespino demonstrates that the counterrevolution was effective because race was mingled with issues such as education and Communism. Also, Crespino points out that many times, politicians interfered with the integration of universities in the state, a point that is of great interest to this study.

Jeff Woods brings a fresh perspective to race and Communism in *Black Struggle Red Scare*.⁶² Woods describes the second Red Scare^{*} in the United States as it played out in the South, and in fact, calls it the “Southern Red Scare.” He demonstrates how Southern politicians advanced the segregationist cause by linking the Civil Rights movement to an international communist conspiracy, thus the *Red Scare*. Woods argues that anti-communist fears were rooted in deeper fears of miscegenation. Also, Woods makes a strong case that the political struggles to preserve segregation in the South were

^{*} *Red Scare* is a term used to describe the fears of Americans that the country would be infiltrated by communistic ideals. The first Red Scare occurred after the Bolshevik Revolution in 1917 and roughly coincided with American involvement in World War I. The second Red Scare occurred after World War II.

not offshoots of McCarthyism* and of massive resistance but were phenomena unto themselves, a position hinted at by Robert Sherrill decades earlier.⁶³

Many southern states used politics and the legal system to block integration. In the fall of 1954, Mississippi and Georgia led an organized resistance effort to block integration by passing amendments to the states' constitutions allowing legislators to close public schools in an effort to thwart integration. Mississippi and Georgia, joined later by Florida, formed state agencies that operated much like the Federal Bureau of Investigations (FBI) in order to spy on private citizens. As previously mentioned, the Mississippi State Sovereignty Commission gathered information that could be used in the state's efforts to block integration.⁶⁴ In all, the Sovereignty Commission collected files on more than 87,000 people in the state who were black, supported integration, or were viewed by the Commission to be sympathetic to blacks. Often, the Sovereignty Commission played a role in scandals on college campuses, including attempts to block the admission of black students to historically white universities.⁶⁵ In 1998, the files, consisting of over 138,000 pages, were unsealed, and numerous scholarly efforts followed.

Yashiro Katagiri's work on the Sovereignty Commission was one of the earliest contributions to this body of literature that explores the state-funded investigative entities.

* See Robert Sherrill, *Gothic Politics in the Deep South: Stars of the New Confederacy* (New York: Ballantine Books, 1968). Sherrill's work discusses many key southern politicians, and makes the subtle suggestion that James Eastland did not learn to parlay anti-Communism fears into Americans from McCarthy, but rather, McCarthy learned the tactic from Eastland.

The book provides a broad summary of the history of the agency.⁶⁶ W. Glenn Watts' work also chronicled the work of the Sovereignty Commission but largely focused on the Commission's efforts at preventing voter-registration drives. Watts also explores the relationships between members of the Commission and the Ku Klux Klan (KKK).⁶⁷ Jenny Irons, a sociologist, places whites and massive resistance, instead of the actions committed against blacks and black sympathizers, at the forefront of her effort to show that while massive resistance failed, massive acceptance has never been achieved.⁶⁸ Rick Bowers supplements the files themselves with oral histories, memoirs, and other government documents of the era and builds upon the premise set forth by Sarah Rowe-Sims that an evolution of the Commission's power occurred when the moderate Governor J.P. Coleman left office and Ross Barnett entered the Mississippi Governor's mansion, and the operational decisions of the Commission shifted from the governor to the White Citizens' Council. Then, the power shifted once again when Paul B. Johnson, Jr. took office.⁶⁹ This work punctuates the power of politics in massive resistance in Mississippi.*

Anders Walker looked at moderate Mississippi Governor J.P. Coleman as a part of her study of southern political moderates during the Civil Rights Era.⁷⁰ Walker argued that moderates' concerns with segregation lied in their desires to attract industry to their states, something that could not be achieved by defying the *Brown* decision overtly. Rather, they used what Walker termed, *strategic constitutionalism*, to achieve their means. Strategic constitutionalism is Walker's reference to modifying laws in the southern states

* While the Sovereignty Commission is not the primary focus of all these works, the organization's actions are discussed in each.

in order to deracialize codified language so that the laws would have more room for interpretation.

The governorship of Ross Barnett has been chronicled by his publicist and long-time friend, Erle Johnston, who was the director of the Sovereignty Commission during the Barnett years.⁷¹ Barnett's time in office not only coincides with the events at Ole Miss Law School that are the subject of this dissertation but also with the apex of organized resistance in the state of Mississippi. In another work, Johnston also chronicled massive resistance in the state along with other Civil Rights events, including the integration of Ole Miss.⁷² Johnston billed his works as presenting an insider perspective to the Ross Barnett administration, however, they read very much as a chronology without analysis. Nevertheless, Johnston's recollections of events described in the book provide a counter to the politically and emotionally laden reports of newspapers from the time.

Michael J. Klarman narrates and interprets judicial decisions that led to the *Brown* decision, beginning with *Plessy v. Ferguson*. Klarman's work is not prescriptive in nature, but he uses the history of the cases to support his argument that judicial decisions involve a combination of legal and political inputs. He provides support for the notion that even though Jim Crow found its strength in the South; due to southern politics, it actually did not begin in the South.⁷³ While Klarman did not analyze desegregation in higher education, he did note that *Brown* "retarded progress in university desegregation" rather than facilitated it.⁷⁴

Two collections of essays by John Egerton are important to this work, as Egerton wrote about civil rights, politics, and higher education in the South and in the nation for over thirty years.⁷⁵ Both works chronicle the struggle toward civil rights beginning in the

Depression. In addition to lengthy discussions of politics, Egerton weaves race and politics together in his portrait of the struggle between black and white in the south. He also analyzes the role of *pop culture* (though the term was not coined at the time) and of higher education in either opening or suppressing the minds of southerners to integration.

As southern political scholarship has shown that southern politics play out on a national level, recent historical work regarding the clash of race and politics has sought to remove southern politics from the South and place them front and center *as* national politics, thereby viewing southern history as American history, much in the same fashion as Woodward and Zinn did in comparing race relations in the South to those in the North during the Civil Rights Era.⁷⁶ A collection of essays, edited by Matthew D. Lassiter and Joseph Crespino, challenges several arguments that are traditionally found in historical work about race and civil rights, several of which are important to this study. First, Lassiter and Jeanne Theoharis explore segregation in northern cities and argue that the American ideal has traditionally been defined by that which is *not* southern, but in fact, northern institutions not only practiced segregation but also justified it because northerners were simply not southerners.⁷⁷ This northern view of itself and of the South contributed as much to the binary history of the nation as did the events that took place in the geographic South at the time (as well as during the Civil War). The authors argue that this view is false and has had deep racial and political consequences in that it has led to the exemption of the North from the same scrutiny regarding racial policies to which the South has been subjected. Second, essays by Crespino and Andrew Weize, explore the construct of regionalism and how the establishment of geographic regions in the United

States shape the way Americans define politics, economics, culture, race, and even identity.⁷⁸

Finally, the 2007 collaborative work of David Brown and Clive Webb, *Race in the American South*, traces the construction of southern identity in the South from colonial Virginia through the beginning of the 21st Century.⁷⁹ While the work focuses primarily on race as a construct, the authors demonstrate that it is impossible to extract gender and class from the historical formation of southern identity. The work is not groundbreaking in its conclusions, historiographically; however, the authors are able to tie a large number of particulars to the identity formation of the South, which reinforces the idea that southern identity is complex and was constructed over a long period of time.

Conceptual Framework

In the past two decades, there has been a renewed interest in space and place across several academic disciplines.⁸⁰ Geographers, for example, have sought to deal theoretically with problems in traditional treatments of space and place. Others in the spatial sciences have also revisited the concepts of space and place and have attempted to understand the significance and meanings of these shifts in more depth. Out of this work, four unique conceptual perspectives have emerged: neo-Marxist, humanist, feminist, and performative. These four perspectives are detailed below.

Place and space, however, have remained unexamined by many scholars. Some historians, for example, have treated place and space as absolute. Even though some have come to recognize social and cultural constructions, such as race, ethnicity, and gender, as important objects of study in historical work, many have not unpacked or incorporated the concepts of space and place in their narratives. They leave these concepts as fully

independent or loosely linked at best. *Place* for example, has long been treated as a matter of location, *space* as phenomenal in nature, and *race* as a construct, often based upon a race's location in space.

Over time, place lost privilege to space both in theory and in practice because theoretically, places began to be treated as having meaning only under the contexts provided by spaces, rather than providing meaning themselves. Practically, places have taken on the character of "sameness,"⁸¹ due to the homogenizing effect of globalization. Often these shifts have been accepted and adopted uncritically and without challenge.⁸² In contrast, this study attends to a co-construction of space and place in which one provides meaning for the other and the meanings evolve in terms of one another through time. It seeks to empirically ground *place* and *space* in the narrative. Analyses of Murphy, Farley, Morse and the Yalies at Ole Miss provide an opportunity to explore space, place, and race in history in order to challenge the notion that space and place are ontologically universal or are constructed in a uni-directional manner but are *co*-constructed throughout time.

If particulars are identified by their unique locations in space and place and in time, then locating these and identifying the areas where individual spaces and places overlap should lead the historian to reconstruct motivations, behaviors, and other circumstances in time that unite the particulars. This study seeks to take this a step further by co-constructing space, place, and race in time using the case of Ole Miss Law School to demonstrate how particulars affect one another in the spaces and places, identify where the overlap occurs that changes the individual's particular space and place, and determine if this new location defines a new space and place and race in time.

Perspectives of space and place in historical work are important because they allow us to explore the nature of change over time. Specifically, using space and place in the study of educational history is important because on an intellectual level, racial identity and class structures in American society are constantly changing, often in respect to one another. The process of change is often slow and fluid, even if it seems punctuated and revolutionary in retrospect.⁸³ Also, the use of space and place aids in sorting out differences and similarities in the thoughts and perceptions of northerners and southerners during the period under study. On a practical level, institutions continually attempt to address changing demographics in students. Understanding how these concepts are constructed throughout time may allow college administrators to better plan institutional policies in response to these changes in order to better serve the students and the community.

Historical Perspectives of Races, Places and Spaces

A consensus exists among scholars that race is a modern concept.⁸⁴ While there is some philosophical debate as to the ontological status of race, philosophers and the scholars of other disciplines treat race as a category that is constructed. Race is treated in the study of history as a historical category defined by cultural, social, and political factors. Throughout history, racial struggles have created racial stereotypes that have taken on an identity of their own; race has been treated by historians as a causal agent in historical change.

In addition to understanding the construction of race, it is important in historical work to understand *places* and *spaces* and the difference between the two. Utilizing places and spaces in scholarly study originated in the geographical sciences. Until the

1970s, geographers treated space as an empty position that needed to be filled.⁸⁵ However, with the emergence of Humanistic Geography, the notion was greatly challenged based upon the premise that humans attach meaning to their endeavors. Further, human endeavors occur in locations in time. Thus, human action has an attached meaning, and the action itself is embodied.⁸⁶ Thus, as meaning is attached to places under study, judgments about *what* happened are often contingent upon *where* it happened. It is in the attachment of meaning to location that makes spatial science extensible to historical studies. Little has been done outside of the realm of geography to distinguish space from place, and the two are often used interchangeably.⁸⁷

Academic debate regarding the nature of place and space dates back to ancient philosophers; however, concepts of space and place, as they are used today, date to the seventeenth century.⁸⁸ The Newtonian view of space is that it is absolute and independent of that which it contains.⁸⁹ This view of place suggests a place is a temporary subdivision of a universal space that is positional (not relational), much like a mathematical point only used for measure. Descartes' view rejects the container notion of space in favor of one that treats space as coextensive with matter; yet he maintains absolutism. Like Newton, Descartes did not give place status independent of space. Yet, he did give a relativist position to place. For Locke space also is absolute, and place is positional, relational, and created by human beings, thus separate from space.⁹⁰ In the Leibnizian view, space and place are unified. Place is not only positional and relational but takes on unique qualities due to positions and relations to other places. In other words, spaces are found in the relations between places, and space is the sum of all places.⁹¹

Absolute views of space are inadequate for historical work on at least one philosophical and one practical account. Philosophically, absolutism only allows for space to be like a container, which suggests that space cannot affect place. But the spaces of interest in historical study are relative, and relational spaces are constructed. They do not exist unless something is present to construct them; thus, they do not exist waiting to be filled. Practically, historians are unable to answer questions of history such as *how* and *why* without moving beyond absolute space. For example, the fact that Doddsville, Mississippi is located at 33°39'27"N, 90°31'27"W does not explain the voting record of US Senator James Eastland in favor of federal farm subsidies, a vote he never missed. The fact that Eastland was born in Doddsville and inherited his father's cotton plantation, which he expanded to over 6000 acres and made his fortune by sharecropping to black workers, does explain his voting record. Because historical spaces are determined a posteriori by analysis of evidence, the objects of history are constructed historically.

Places and Spaces, A Revival of Thought

Both place and space are concerned with positions.⁹² Place, in its simplest sense, is a term of particular location, whereas space is a term of general location. Yet, one cannot exist without the other. Theoretically, the two must be resolved, or they cannot be utilized in practice.

Currently, there are four prevailing theoretical views that attempt to resolve space and place. First, the neo-Marxist view regards space as abstract and constructed via social and spatial practices. Under this view, best represented in the writings of Henri Lefebvre, places are concrete, and previously occupied places can be reoccupied. Spaces, on the other hand, are fluid and flow through places. Second, in the humanist perspective, space

is an inherent feature of the natural world (and thus, ontologically real).⁹³ When humans experience spaces, places are then created. Third, in the feminist perspective, place includes both locations and constructions from relationships, social situations, and experiences, though they may be rather mundane constructions, such as in the day-to-day relationship between a barista and a customer. Due to location, place may have a bearing on its higher order construction.⁹⁴ The feminist view also considers space to be constructed, but space is not an active participant in its own construction. Fourth, the performative perspective considers spaces to be temporally isolated events. Places are trajectories that run through spaces and are made by the association of space and time.⁹⁵

These theoretical perspectives are born out of competing schools of thought, and none are empirically grounded, yet, they are united on a few fronts regarding places. First, places (other than locations) are socially constructed. Second, places are dynamic and are subject to change.* Third, because the boundaries of places are fluid, they are easily malleable. Fourth, place may have contexts that stretch over space. This means that place is not either local or regional. It may be one, the other, or both, as is the case with political affiliations.

Concepts of space can be sorted out into multiple levels.⁹⁶ In general, space has been treated on a primary level to be a location that contains matter, even if the space is only temporarily in existence. Extensions to this absolute concept of space include relative and relational space. Relative space includes spaces that exist due to phenomena,

* This does, however, introduce a serious challenge regarding the ontological status of the second type of place. For if places change (undergo processes), they must be real, not constructions.

such as socioeconomic and cultural spaces, and is measured by the relationships themselves. Relational space is associated with cognitive processes, including beliefs and perceptions of locations.

Place, on the other hand, carries with it two distinctive schools of thought. First, is the concept that places are reflective “nodes in space,”⁹⁷ which have no impact upon space or its inhabitants. They are parts of the whole that have no bearing on the outcome of the whole. The second school of thought is that places are mediating environments in space that affect the physical, social, and economic process that occur in the space. In other words, places affect spaces by their mere presence.

If latter schools of thought holds, then it can be argued that place affects space and vice versa. One is not constructed by the other; they are co-constructed much in the same way that ecological niche construction occurs.* Thus, the physical, social, and economic outcomes of historical events are a product of where the events occurred, the attitudes, opinions, and beliefs that were in existence in a location at a previous time (and possibly at a different location at the same moment in previous time), and the phenomena that are occurring within the mediating environment. This view allows us to better understand not only space and place *in* history, but also to understand the spaces and places *of* history.

Within this frame of thought, place, like space, can then refer to several levels.⁹⁸ First, place is a location in space, which due to its position in space, gives it a relation to other places. Second, place is set of locations where social occurrences happen even if the

* Of course, ecological niche construction itself is a philosophical hotbed for debate.

locations are not particular, such as in online learning environments. They are considered to be placeless at the primary level of place. Further, mobility can be a defining feature of a place. Migrant workers, for example, define places which are neither spatially or temporally permanent. Third, place is a sense of identity with a second level place. It is important to note that within all levels, the relation of place to something else is necessary. It is the dynamic relationships among places that are of much interest.

Challenges to Space and Place Important to Historical Work

In response to post-structuralist ideas of spaces and places, Thrift developed “non-representational theory,” which argues that humans cannot extract a representation of the world if we are active participants in the co-creation of the world itself,⁹⁹ a view later reinforced by others.¹⁰⁰ Thus, non-representational theory greatly restricts both the ontological and metaphysical limits of spaces and places in time. This challenge, however, does not necessitate that historians accept a strong version of relativism. Rather, historical work can take into account spaces and places much in the same way that Kuhn* views scientific endeavors. Historians have long worked upon the premise that we can only

* Thomas Kuhn makes a strong case for scientific antirealism; yet he acknowledges that strict antirealism leads to a relativistic position that is not conducive to the generation of scientific knowledge. Thus, Kuhn concedes that while operating under a paradigm, the knowledge can be treated as real as long as it is fruitful in the quest for new knowledge or until a scientific revolution occurs, thereby falsifying the knowledge. See Thomas S. Kuhn, *The Structure of Scientific Revolutions*, 3rd ed. (Chicago, IL: University of Chicago Press, 1996).

reach an approximate understanding of the past, notably Foucault.* Taking into account space and place in time works to increase our understanding of events in the past as a best approximation of *what* happened and *why*.

The Importance of Space and Place in Historical Work

Joseph Crespinio, recently wrote, “The American South has never existed so much a literal place as a figurative one. Yet, it is a location on a map,” and he goes on to refer to the South as an “imagined place” and then as an “imagined space” and begs the question: where are the boundaries of the South?¹⁰¹ This demonstrates that historians refer to race, space, and place as constructs, separate from locations with measurable coordinates. Yet, geographic regions (e.g. the North and the South) have been treated by scholars as real without any analysis of what is real and what is actually constructed.

The importance of place and space is illustrated by the history of the slave trade itself. The export of 12 million Africans to the New World was the largest recorded forced spatial migration.¹⁰² The slave trade in the United States dates back to colonial America when the need arose for a spatially fixed labor class in order to sustain the tobacco industry. Later, slave populations increased in coastal Georgia and South Carolina, where ninety percent of the nation’s rice was grown before a final descent into the Black Belt where cotton became king. While slave migration into the Deep South occurred last, it happened rapidly, drastically altering the landscape and causing a dramatic flux in opinions and beliefs about racial identity. The slave trade changed the physical landscape of the Americas in addition to the cultural and social landscape.

* For a thorough discussion of Foucault’s view of history, see Jonathan Murdoch, *Post-Structuralist Geography* (London: SAGE, 2006).

For many years, environmental historians have criticized traditional historians for the neglect of landscapes (as locations) in their work.¹⁰³ Similarly, environmental historians have largely not addressed southern locations. Rather, they have focused primarily on New England and the western states. Southern cultural and social practices have always been of interest to historians, but there is an increasing interest in southern landscapes in historical work. Future scholarly endeavors of southern history will benefit greatly from the revival and resolution of space and place in attention to the new attention being paid to southern locations. Dealing with locations, places, and spaces simultaneously is no simple task, but it is an important one for analyzing history. The stories of Murphy, Farley, Morse and the Yalies may have differed if the events had taken place elsewhere, and studying historical events in terms of places and spaces enables historians to determine their applicability in practice to historical work.

Research Methodology

In an effort to engage both complementary and competing insights regarding the political, social, cultural, philosophical, and spatial components of the Ole Miss Law story, this study makes use of two main research methodologies, historical methods and systems analyses. It also draws on two additional models that are interdisciplinary, Critical Social Theories and Identity Politics. What follows is a description of these methods and models and a rationale for employing them.

Historical Methods

In addition to accounting for space and place, this study uses techniques employed by historians.¹⁰⁴ As noted above, modern historical methods have been greatly influenced by the social sciences and to a lesser degree, the humanities.¹⁰⁵ Studying

phenomena from a historical perspective often allows a scholar to consider the interrelatedness of a variety of factors, including those that are social, cultural, political, and economic. Using historical methods and a problem-oriented approach, this study begins with historical questions framed by the secondary literature. Then, primary sources are collected, critiqued, assessed for usefulness, and finally analyzed in terms of the research problem.¹⁰⁶

*Credibility.** Validity and reliability are especially problematic in historical work. As with qualitative research, numerous epistemological questions arise regarding the truth-value of historical data.¹⁰⁷ Further, as credibility of the data is established not by the data itself but by the data collection instrument, the researcher as instrument must establish credibility through effort, skill, and ability in the collection of data.¹⁰⁸ The best method of reaching credibility in historical work, borrowed from quantitative and qualitative methods, is to collect data that is both robust and representative, which enables the historian to achieve at least a close approximation of the truth. To achieve this, both data and methods are triangulated.¹⁰⁹ In this work, data were collected from as many sources and as many different types of sources as are available and will be evaluated from multiple insights.

* Some debate exists as to whether or not reliability can be achieved in qualitative work. For the purposes of this work, validity and reliability are referred to collectively as “credibility,” a convention used by Golafshani. See Golafshani, “Understanding Reliability and Validity in Qualitative Research,” *The Qualitative Report* 8, no. 4 (2003), 597-607.

To further increase credibility, careful handling of evidence must be achieved. Data were catalogued in chronological order both electronically and in print. The chronology of the documents themselves aids especially in the ability to analyze the data in terms of place and time.*

Criticism. First, authentication of a document, sometimes known as *external criticism* or *external validity*, is the first step in source criticism. Authentication of documents includes the establishment of provenance of the document and determination that the contents of the document are consistent with established facts.¹¹⁰ Also, the historical standing of a source must be identified.

Next, the content of primary sources must be interpreted, a process often called *internal criticism* or *internal validity*. Internal criticism is a process that deals with vagueness and bias present in sources and with presentism in interpreting sources. To deal with vagueness, the establishment of the meaning of a document and the determination whether multiple meanings are embedded in a document must be performed.¹¹¹ To deal with presentism, the researcher must determine if the connotations of words used in a source are the same today as when the source was recorded.

Then, the motivations and biases of the author of documents must be explored, and the historical significance of biases must be examined by employing three procedures.¹¹² In order to explore bias contained in historical data, documents are sourced by author in the place and in time in which they were created. Then, context is applied by

* See M. Howell and W. Prevenier, *From Reliable Resources: An Introduction to Historical Methods* (Ithaca: London, 2001), 43. For the purpose of this work, this concept is extended to locating resources in space.

placing documents in the conditions present during the genesis of the document. Finally, documents are corroborated to determine whether or not they express the same information.

Synthesis. Finally, data must be synthesized for the purpose of creating historical interpretation and explanation of events. During synthesis, data are correlated and inductive reasoning is employed to produce a meaningful explanation of events.¹¹³ The beliefs and actions of the actors involved in the narrative are compared to one another, as are the intentions of the actors and the consequences of their actions.¹¹⁴ This study will also employ deductive reasoning in dealing with the concepts of places and spaces in time.

Systems' Thinking

In addition to the historical method, this study makes use of the Interdisciplinary Research Process (IRP) advocated by Allen Repko.¹¹⁵ Repko approaches the study of complex problems by treating them as open systems that are bounded, thus isolated from an external environment, yet receive input from the external environment. Likewise, they output into the external environment. Further, Repko insists that complex problems are complex, not only because they have input-output mechanisms, but also because they have both linear and non-linear agents, and positive and negative feedback loops. Because the relationships between and among the cultural, social, political, and physical landscapes of the South are of interest in the current study and fit these criteria, Repko's approach is useful.

In treating complex problems as systems, systems-thinking is employed in the IRP for determining the theories, concepts, or insights that are used in the critical analysis

of evidence.¹¹⁶ Complementing the historical method, systems analyses are methods used to deal with complex research questions by breaking problems into their constituent parts, identifying relevant disciplinary insights and theories that address the problems, and establishing the relative importance of causal linkages produced by the disciplinary insights to the whole problem.¹¹⁷ Collected data are integrated with the disciplinary perspectives in order to better understand the system as a whole.

In employing the IRP articulated by Repko, this study draws upon Rick Szostak's schema of classification of human phenomena for the purpose of identifying the components that make up the system under study.¹¹⁸ Applied to the current problem, Szostak's schema locates the problem situated in and among educational and political institutions,* political ideologies, race as a social structure, and identity. Therefore disciplinary theories, concepts, and insights that address the phenomena that occur within these are selected for analysis.

In the selection of theories, concepts, and insights, Repko advocates simplicity, meaning that utilizing theory-based insights that require the least amount of "stretching"¹¹⁹ in order to achieve common ground among Szostak's categories is preferred over the modification of theories to achieve the same. Such should only be approached when no alternative exists. Also, theories, concepts, and insights that encompass multiple phenomena in Szostak's schema is favored over the use of one or more theories, concepts, or insights per phenomenon.

* Szostak categorizes academic institutions under politics as a matter of convenience because they do not fit easily elsewhere in the schema.

As the current problem is situated in the Civil Rights Era in the United States and addresses social and political movements of the era as they pertain to an academic institution, social and political theories are appropriate choices. Also, as the study seeks to integrate insights from the theories, rather than direct applications of them, two broad models are fitting, Critical Theories, and Identity Politics. These in concert encompass the identified categories of human phenomena as indicated by Szostak and provide devices that help to locate the spatial constructions of space, place, and race in the narrative. Because Critical Theories and Identity Politics are already interdisciplinary in nature, the insights contained therein require less manipulation for the current topic, thus maintaining the requirement of simplicity in the IRP.

Critical Theories

In the narrow sense, Critical Theory (CT) refers to the lineage of philosophical theories that originated in the Frankfurt School (*Institut für Sozialforschung*). These theories attempt to demarcate a normative notion of democracy from the prevailing liberal political notions. Critical Theory rejects objectivity, which characterizes traditional (non-critical) theories and is also interpretive (though post-modern forms of CT allow for both explanation and interpretation).

In its conception, Critical Theory is a political-economic theory. In one post-modernist conception, critical theory is a pragmatic social theory.^{*} As a social theory, Critical Theory seeks to identify the “irrational conditions of society,”¹²⁰ that enslaves mankind so that mankind may free itself. As the human condition has been riddled with oppression throughout time, a wide range of theories have been formulated since the

^{*} A second line of the lineage resulted in forms of post-modern literary critiques.

Frankfurt School in order to deal with individual social conditions as they have emerged. Among them, Critical (Social) Theory is meant to address all members of society, not merely a representative sample. Further, a critical theory must simultaneously be explanatory, practical, and normative.¹²¹ In other words, the theory must identify the problem with a social reality at any given moment in time and characterize the actors contributing to the problem. It must also identify achievable practical goals and establish norms for criticism. In order to achieve such, an interdisciplinary mode of inquiry, including psychological, sociological, and philosophical methods, can be utilized.

Post-modern CT requires reflectivity as a component of CT in practice, but it is not meant to be delivered as a first-person interpretation.¹²² Rather, perspective-taking* allows a social inquirer to combine first-, second-, and third-person perspectives of socially constructed ideologies. Proponents of post-modern CT argue that this pluralistic approach allows for the inquirer to reach a closer approximation of the truth without adopting a strong sense of realism that is incompatible with continually evolving social structures.¹²³ Thus, critical social inquiry takes a step beyond pragmatic approaches in that it does not identify a definitive end—social reform. Rather, it calls for the continual reexamination of institutionalized practices and the social norms that evolve to maintain the practices. In exploring the institutional domination of oppressed groups, moral dimensions of oppression can be addressed in addition to instrumental dimensions.¹²⁴ An

* Perspective-taking is also a hallmark of the IRP. See Allen K. Repko, *Interdisciplinary Research Process and Theory* 2nd ed. (Los Angeles: SAGE, 2012), 56, 274-278.

added benefit of a reflective approach is that it is applicable to both micro- and macro-explanations of sociological phenomena.

Identity Politics

Identity Politics (IP) refers to both the theoretical underpinnings of the study of groups that are excluded from participation in political activities based upon their inclusion in a category* that is determined by identity rather than ideal (e.g. race or gender), as well as the activities themselves in which the marginalized, stereotyped, or exploited grouping of the category (e.g. black or female) participates in order to eliminate the category itself as an object of oppression.¹²⁵ In other words, it is not the goal of identity politics to seek inclusion in a dominant grouping but to eliminate the perception of superiority of any grouping within the category.¹²⁶ This implies that the goal of identity politics is not to seek respect for a grouping despite differences but to achieve respect for difference itself. The usage of Identity Politics in academic discourse dates to the later quarter of the 20th Century.¹²⁷ As major social movements under study predated the usage of IP, it has often been applied retroactively.

Identity Politics argues that in order to achieve the goal of eliminating oppression of a marginalized group, the dominant group must undergo an evolution in their understanding of their own identities in relation to the identity of the oppressed group.¹²⁸ In other words, the private opinions of individuals must shift. This, according to IP,

* Race is the category pertinent to this study. Thus, mention of identity politics throughout is in reference to racial identity politics.

usually occurs under minority influence.* A challenge, both in theory and in practice, is the fact that in order to combat policies based upon oppressive categories, one must adduce them, creating a paradox in which the category for exclusion is reinforced in its application to its own elimination.

Further, experience is vital for a change in personal opinion.¹²⁹ Yet, there is no a priori epistemic access to experience. Thus, according to IP, only those who encounter the oppressed group will be able to undergo a shift. This, however, does not mean that the encounter must be interpersonal. In the current study, access to both minority influence and majority influence through the media cannot be understated. While these challenges should be noted, they are typically challenges in the application of IP in its more traditional usage, such as in policy-making, and implementation of IP is not problematic in the current application of IP in historical study.

The emphasis on identity in IP brings a valuable perspective that is downplayed in CT. While the construction of ideologies is critical to understanding the evolution of social structures themselves, critical theories package the very things that make up identity into a variety of senses of ideologies. For example, components that factor into identity, such as skin color or religion, are treated as descriptive ideologies;¹³⁰ yet, CT holds that ideologies themselves disable social progress. While one may change religion or religious disposition, skin color cannot be changed. Thus, the recognition of identity as different from ideology and using them in concert enables one to overcome the problem.

* In the current study, this is questionable, as the agents under study were all white.

Next, Identity Politics and Critical Theory both deal with domineering power structures, but IP does not explore the causative processes that determine the power structure itself. Rather, the field accepts a priori that the structure exists. This is where Critical Theory fills a void. Reflectivity identifies the collective individual choices and actions that lead to the institutionalization of a marginalized group. In order to fully achieve the goal of emancipation, a goal identified by Critical Social Theory but also shared with Identity Politics, attention to both identity and ideology are necessary as well. While the two have not traditionally been used together, they are not incompatible, and in fact, complement one another. Critical Theory requires little stretching in order to accommodate Identity Politics.

Data Collection

Periodicals, newspapers, archival materials, and oral histories were utilized in this dissertation. They are described below.

Periodicals

The events that occurred at Ole Miss during the time under study were reported in *The Nation*, *Time*, and *Ebony*. These reports reflect a national view of race and politics in the South.

Newspapers

Periodic reports of events, letters to the editors, and opinion pieces were frequently published in local and regional papers. These include the *Oxford Eagle*, *Lafayette County News*, *Clarion Ledger*, *Memphis Commercial Appeal*, *Delta Democrat Times*, *Meridian Star*, *Jackson Daily News*, *Jackson Sun*, *Lexington Advertiser*, *Times Picayune*, and *The Southern Patriot*. Also, the *New York Times* followed these events.

Archives

The university records, including administrative and academic papers, and student publications are contained in the University of Mississippi Special Collections.

Additionally, several collections at the University of Mississippi Archives contain correspondence, memoranda, oral histories, and other documents relevant to this study.

They include the AAUP Collection, James O. Eastland Collection, and the William Murphy Collection. The papers of J.D. Williams and Porter Fortune are located in the Chancellor's Collection.

The Mississippi Department of Archives and History (MDAH) houses many collections pertinent to this study, including subject files for the University of Mississippi, Chancellor John D. Williams, The Citizens' Council, Governor James P. Coleman, and Governor Ross Barnett. Also, both the official records and private information collected by the Mississippi State Sovereignty Commission are now archived by MDAH. This collection includes the Sovereignty Commission files for William Murphy, Chancellor J.D. Williams, Joshua Morse III, Dona Moses, and the Yalies and their wives.

Oral History Data

Oral histories in collection with the William Winter Institute for Racial Reconciliation include Reuben Anderson, Joshua Morse III, and William Winter. The Southern Oral History Program, Oral Histories of the American South (DocSouth) at the University of North Carolina, Chapel Hill houses the oral histories of William Patrick Murphy. The oral history of Cleve McDowell is available through Dickenson College, and the oral history of Senator James O. Eastland is available through the Lyndon Baines Johnson Presidential Library.

The Mississippi Oral History Program of The University of Southern Mississippi (Series) houses the oral histories of Erle Johnston; Governor Ross Barnett; Governor James P. Coleman; Thomas Tubb; a member and Chairman of the Board of Trustees; Thomas Brady Pickens; justice of the Mississippi Supreme Court. These oral histories are beneficial in the exploration of politics in public institutions.

Definition of Terms

It is necessary to define terminology used in this study in order to provide clarity to the current use of some terms that have been used ambiguously or inconsistently in the secondary literature.^{*} Also, terminology for which no consensus in meaning exists must be defined for use in this study.[†]

Black

Over the period of time under study, the preferential terminology in both the primary and secondary literature for persons of African descent changed from *negro* to *black*. Also, sometimes, the term *colored* was used. For consistency, this work makes use of the term *black* as an ahistorical identifier only.

^{*} Additional historical use of terminology is discussed throughout as necessary.

[†] Different terms are often used between disciplines to mean the same thing, and within disciplines, the same term is often used to mean different things. Because of this, creating common ground in vocabulary is an important step in the IRP. For linguist common ground, Repko defers to cognitive psychologists Herbert H. Clark (Common Ground Theory) and Rainer Bromme (Theory of Cognitive Interdisciplinarity). For a discussion of Clark and Bromme in interdisciplinary research, see Repko, *Interdisciplinary Research*, 266-269.

Black Belt

The term was originally used to describe a crescent-shaped agricultural region of northwestern Mississippi extending into south-central Alabama where rich, fertile soils were black in color and contained mixed sub-regions of prairies and hardwoods.¹³¹ The forced removal of Native Americans coupled with a redesign of the cotton gin that made it fit for large-scale production led to the conversion of Black Belt uplands for cotton farming. Migrant workers flocked to the region, bringing with them slaves from the North or purchasing them once established in the Black Belt, leading to a concentration of approximately one million slaves. Over time, the cotton-growing region expanded west into Texas, north into Tennessee and Arkansas, and east into Georgia, Florida, the Carolinas and into Virginia.¹³²

The sociological meaning of the term began to develop after the Civil War in the United States. After the Emancipation Proclamation and with diminished cotton farming, the region was left economically depressed and with a high ratio of blacks to whites. The term took on a socioeconomic meaning that was tied to politics as early as 1901 when Booker T. Washington wrote that “...since the war, the term seems to be used wholly in a political sense—that is, to designate the counties where the black people outnumber the whites.”¹³³

Civil Rights Movement (Era)

Civil rights movements have occurred worldwide in an effort to achieve civil and political equality for minorities.* For the purpose of this dissertation, the terms *Civil Rights Movement* and *Civil Rights Era* refer specifically to the portion of the Civil Rights Movement that occurred during the 1950s and 1960s in the United States.

(Historical) Event

Traditionally, narrative works have treated historical events as slices in time but have ignored (or not analyzed) any spatial component to events.¹³⁴ Events, however, are identified and located in time by changes in real objects, which occupy some level of space. Thus, for the purpose of this study, observed historical events are considered to occupy both a temporal and spatial location.

Jim Crow

The first known usage of the name Jim Crow was in the 1828 minstrel song, “Jump Jim Crow,” which depicted the song and dance of an African slave. By 1838, the name was being used as a pejorative term to describe any black person. Jim Crow later was adopted after Reconstruction to describe laws that were enacted to maintain the segregation of public facilities. It also has been used widely in scholarly literature to temporally demarcate the existence of Jim Crow Laws in the South (Jim Crow Era), as well as to describe the space of the South and its general attitude towards blacks (Jim Crow South).¹³⁵

* See Andrew Altman, "Civil Rights," *The Stanford Encyclopedia of Philosophy*; Alexander Tsesis, *We Shall Overcome: A History of Civil Rights and the Law* (New Haven: Yale University Press, 2008).

Massive Resistance

The term *massive resistance* was first used by US Senator Harry Byrd of Virginia in reference to a call for the political leaders of the South to unite and to pass laws to block the integration of public schools.¹³⁶ Over time, the term became synonymous with any and all actions used by southerners to block the integration of public places and to maintain de facto Jim Crow policies of the South. A recent work by George Lewis has divided massive resistance into three distinctive phases: the years immediately following the *Brown* decision, the years immediately following the signing of the “Southern Manifesto” by US Congressmen from the South; and the years of the Civil Rights Movement when resistance, according to Lewis, began to become ineffective and, thus, began to lose its appeal to southerners. For the purpose of this work, the term will be used in the traditional encompassing sense to refer to any effort, whether organized politically or on a grassroots level, to block the integration of public places.

Politics

The term *politics* has many usages. Broadly, it refers to the use of power and resources to exercise influence upon a group of people. More narrowly, it is used to describe such exercise in structures of governance. Unless otherwise noted, in this work, the uses of the term or other forms of the term are in made in reference to the latter.

Progressive Era

The *Progressive Era* refers to a period of time in the history of the United States during which a wide range of social, political, and economic reforms took place coupled with the rapid expansion of industrialization. Though it is generally considered a movement of the 20th Century, local and state-level progressive reforms date back to

1890. Less resolved is when the Progressive Era ended. Most twentieth-century scholarship ended the era and its movements around the time of World War I, but recent scholarship contends that social reforms did not die in the war and move the timeline into the 1930s and beyond.¹³⁷

Reconstruction

Reconstruction typically is used to refer to a period of time following the Emancipation Proclamation, issued on January 1, 1863, until 1877. It is used in reference to how the federal government dealt with the readmission of seceded states to the union, including but not limited to how they were reseated in Congress, how they reorganized their state governments, and the legal status of freedmen. Reconstruction was not an effortless process. Northerners were enraged that states were allowed to assume leadership roles in the federal government after having left the union. Likewise, southerners were appalled that blacks held government offices. The Ku Klux Klan was also born in the South during this era, adding further to discord in the region. Because of these, Reconstruction is often used in reference to the process itself as a struggle, rather than merely as a period of time in US history.¹³⁸

The South

The *South*, as used in this work, is a geographical reference that has been used historically in the United States to refer to the states that seceded from the Union during the Civil War to form the Confederate States of America. They are: South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana, Texas, Virginia, Arkansas, Tennessee, and North Carolina (in order of secession).¹³⁹ These states share political and cultural commonalities that have persisted throughout time and survive today. They are

sometimes referenced as the *Deep South* or *Dixie* to distinguish them from their border states.

Yalies

Today, the term *Yalie* is typically used in reference to a person who is affiliated with Yale University, such as a student, alumnus, or member of the faculty, staff, or administration. It is used affectionately by these groups of people in reference to themselves but also is used in a derogatory manner by members of rival schools. The first known use of the word was derogatory and was published in 1941 in the Harvard publication, *Crimson*.¹⁴⁰

The student publication, *The Yale Daily* news used the term extensively throughout the 1960s in reference to its student body. The term was first used in reference to the professors at Ole Miss in an article published by *Time* in 1966. This term caught on and was used often in local and regional newspapers to describe Josh Morse and the professors he recruited from Yale University as the events described in this dissertation continued to unfold.¹⁴¹

Preview of Chapters

Before exploring the progressive era of Ole Miss Law School, it is first necessary to review the political history of Mississippi as situated in national politics in the years immediately preceding the Civil Rights Era. Chapter II examines this history and briefly reviews key events in national politics that were related to race, education, and the doctrine of state's rights. The chapter also outlines the gubernatorial genealogy of the State of Mississippi during the time under study. Chapter III traces the history of Ole Miss Law School from its founding through the Great Depression. The chapter also

explores the evolution and consolidation of the governing boards of the institutions of higher learning in the State of Mississippi and demonstrates a long-standing link of the boards to the political structure of the state. Providing institutional and political chronologies stations the narrative of the Ole Miss Law School into this structure.

Chapter IV is a narrative of the experiences of the early years of Robert J. Farley and William Patrick Murphy at Ole Miss Law. The chapter begins with the appointment of Robert J. Farley as the Dean of the Law School in 1946 and continues through the 1960 Mississippi legislative session. During this period, the law school experienced rapid growth in enrollment and expansion of facilities. However, the years were also tumultuous, as the battle to prevent the integration of public schools in the state intensified after the *Brown* decision of 1954. During this period, faculty and staff members of Ole Miss, including Farley and Murphy were accused by former and current members of the state legislature of conduct considered antithetical to states' rights and racial mixing. Chapter V picks up after the legislative session of 1960 and continues through the retirement of Robert J. Farley in 1963. During this period, Murphy spent most of his time in visiting positions outside of the state in order to avoid additional turmoil in the law school. Though he was absent, efforts persisted to have him removed from his law school post.

Chapter VI traces the appointment of Farley's successor, Joshua Morse III in 1963 through the first half of 1968. Like the deanship of Farley, Morse's years in Ole Miss Law were both prosperous and troubled. Morse secured grants from the Ford Foundation and the US Office of Economic Opportunity that became controversial in the state. A portion of the funds from the Ford Foundation grant was used to employ faculty

members in the law school who Morse recruited from Yale Law School. Some of these faculty members, the Yalies, later became involved with a rural legal aid program that was founded with the funds from the Office of Economic Opportunity grant. The attention paid to indigent clients, who were primarily black, led to a wave of attacks upon the law school by the state legislature and members of the Bar.

These attacks eventually led to the exodus of the Yalies and Morse and caused the American Association of Law Schools (AALS) and the American Association of University Professors (AAUP) to investigate Ole Miss Law for attacks upon academic freedom. Chapter VII details these investigations. Also, the chapter describes the appointment of Morse's successor, John W. Bunkley, Jr. Dean Bunkley was appointed by Chancellor Porter L. Fortune despite strong opposition of the law school faculty. This too contributed to turmoil within the law school itself and also led to additional investigations by the AALS and the AAUP.

Finally, Chapter VIII presents a discussion of the progressive era of Ole Miss Law in terms of the constructions of ideology and identity in the associated spaces and places of the law school, university, and the State of Mississippi over the period of time under study. It also discusses the relationships of the administration and the governing board of the university to the law school and the political structure of the state. The chapter also presents a discussion of the effects that the actions of the administration and governing board had on the space of academic freedom at Ole Miss Law.

In summary, there exists a void in the literature regarding the Ole Miss Law School during the Civil Rights Era, a void that is curious because of the law school's high profile and historical link to the governance structure of the State of Mississippi. During

this time, the law school came under attack on several occasions for allowing foreign ideologies to enter into its orbit. But one must ask, —were the ideals truly foreign? Also in question is how those in the law school responded to attacks. Finally, how did the administration of Ole Miss and the state governing board factor into the struggle?

Before filling the remaining gaps in the story of the period of time during which Ole Miss Law was oddly progressive, it is first necessary to situate the story in the political atmosphere of the state as well as to orient the story in the institutional history and atmosphere of the University of Mississippi and of Ole Miss Law School. Doing so will help to bring the events out of isolation so that they may be properly woven into the history of higher education in Mississippi.

CHAPTER II

REBEL POLITICS IN THE DEEP SOUTH

“Into this vacuum roared a cyclone—an ardent band of white supremacists whose sense of purpose was matched only by their skill. They knew exactly what they wanted, and as past masters at the art of state politics, they knew exactly the chords to strike that would best arouse the average, frightened, isolated, white Mississippian.”

Walter Lord

Single Party Politics in the Deep South

For nearly its entire existence, the South has been dominated by single party politics.¹ The Whig Party enjoyed a brief success alongside the Democratic Party in the South, but the demise of the Whigs destabilized politics in the southern states. During reconstruction, the Republican Party, then new to the South, suffered from a lack of unity in their national platform, and Republicans abandoned efforts in the South and refocused on the West.² By the time Reconstruction ended, the South was once again dominated by a one-party system, and with the exception of a few years of the presence of the Populist Party, the South would remain that way until the 1970s. In 1876, the voters of Mississippi elected Adelbert Ames, the first in a line of thirty Democratic Governors elected in the state before Governor Kirk Fordice, a Republican, won the ticket in 1991. In fact, Mississippi would not see a Republican gubernatorial nominee until 1966.³

During the Civil War, the Democratic Party became disorganized in the South, and when the US Congress readmitted Mississippi to the union in February 1870, Republicans dominated the state government.⁴ Newly enfranchised freedmen, all Republican, held office at the federal, state, and local levels. By the election of 1875,

blacks were running for county and legislative seats as well as congressional posts. The state treasurer's office was also vacant. Democrats appealed to "color line"⁵ politics—the notion that it is a white person's duty, as a white person, to vote in favor of the majority opinion. The party also used fear and intimidation at the polls to capture nearly every seat at all levels of government. The next year, Democrats would also take the judicial branch in the state, effectively ending Reconstruction in Mississippi. Post-Reconstruction Mississippi was a place that shared a space in the South where race-based politics trumped other political ideologies because in the South, race was *the* political ideology.

In 1890, Mississippi became the first of the former Confederate states to call a constitutional convention to end black suffrage, which threatened the identity of the white supremacist South.⁶ While, several issues were discussed at the convention, the hottest topic was one that surrounded voting. Needing to circumvent the Fifteenth Amendment of the US Constitution, passed during Reconstruction, white Mississippians sought a way to legally disenfranchise blacks at the polls by creating exclusions that were not *prima facie* racially categorized. Under the guise of "eliminating ignorance at the ballot box,"⁷ literacy tests and a poll tax were implemented. Grandfather laws were provisioned allowing for illiterate whites, who were already registered to vote, to be excluded from poll provisions.⁸ Effectively, the 1890 constitution contributed to the disenfranchisement of poor whites as well; however, as the number of poor blacks greatly outnumbered the number of poor whites, far more blacks were rendered unable to vote due to voting laws.

In 1898, the constitution was challenged in the US Supreme Court in *Williams v. Mississippi*,^{*} but the court upheld the 1890 Mississippi Constitution.⁹

The Federal Government, Education, and Civil Rights

More than fifty years later, the dichotomized white-black racial identity was strongest in the South, but bi-racial ideologies permeated the national space. Upon the death of Franklin D. Roosevelt, Harry S. Truman assumed the presidency of the United States. At the time, Jim Crow laws were fully in effect, at the both state and federal levels. As a senator, Truman had advocated in favor of civil rights reform, though he usually situated his support in a separate-but-equal context.¹⁰ This helped to ease the minds of conservative southern voters who endorsed Truman's nomination for vice-president in 1944. However, when Truman entered the presidency, he inherited several political problems from the Roosevelt administration that could not be ignored.

Franklin Roosevelt's approach to dealing with the civil rights of the nation's black population was mostly rhetorical, but Truman faced an emerging Cold War. The United States could no longer boast its position of the leader of the free world, when a large

^{*} Henry Williams was indicted and convicted of murder by an all-white jury because no black jurors were on the jury roll as a result of the disenfranchisement provisions of the 1890 constitution. Counsel for Williams argued that Williams' rights under the Fourteenth Amendment of the US Constitution had been violated. The question for the court was whether the constitution itself was in violation of the Fourteenth Amendment. In a 9-0 ruling, the US Supreme Court found that, while the state's constitution could be egregiously administered, the laws contained within, *prima facie*, were not in violation of the Fourteenth Amendment.

number of the county's citizens were, in fact, not free. While historians argue whether Truman developed a sense of true compassion for blacks, most agree that concern for the international position of the United States coupled with political enterprise fueled Truman to lead social change at the federal level.¹¹

In 1946, Truman signed Executive Order 9808, thus forming the President's Committee on Civil Rights. Nearly a year later, the committee released its report, *To Secure These Rights*, which prescribed an agenda for confronting the racial problem in the country. Recommendations included the abolishment of poll taxes, legislation to deal with police brutality, and the establishment of a permanent commission to address civil rights. The report also called for an end to segregation based upon "race, color, creed, or national origin"¹² in regard to interstate transportation, health care, housing, education, and the armed forces. The enactment of this order changed the legal space of the nation. The force exerted, however, would prove to be insufficient to alter places in the nation, especially in regard to race.

President Truman delivered the committee report to congress on February 2, 1948. During the speech, Truman endorsed many of the recommendations made in *To Secure These Rights*, but he failed to endorse the recommendation to end segregation in interstate transportation. Afterward, he went on to establish two executive orders, one to establish the Fair Employment Board and the second to gradually eliminate segregation of the armed forces.¹³

Also in 1946, Truman established a Commission on Higher Education and charged the commission with studying the role and function of higher education in the United States. Truman was particularly oriented toward expansion of higher education

and also an expansion of the GI Bill.* This was the first time that a federal inquiry into education was made. The report, “Higher Education for Democracy” (more commonly called *The Truman Commission Report*), demonstrated that race and class ideologies reached beyond the boundaries of the South, as the findings showed great disparity existed throughout the nation in the access to higher education based upon both race and income.¹⁴

The inquiry also found that the federal government had invested too little in higher education. The report called for the federal government to provide justice for the inequity in the form of massive federal spending on educational programs. The recommendations, however, were controversial. Truman was a fiscal conservative, and was hesitant to for the federal government to invest large amounts of capital into the cause. Also, the report was viewed by politicians in Washington DC to be intrusive to state governments. So, federal spending in education stalled before the first dollar was spent. However, tenets of the report later would be revived during the administrations of John F. Kennedy and Lyndon B. Johnson.¹⁵

During the same decade Truman was elected, northern Democrats in the federal legislature fought against the repeal of poll taxes in federal elections on three separate occasions. First, in 1941, Mississippi Senator (and former governor of the state) Theodore Bilbo led the opposition in the senate reasoning that if poll taxes were removed, then a repeal of educational requirements would soon follow. The senator argued that doing so would leave no legal block to disenfranchisement of blacks at the polls. Though

* The formal name of the legislation that provides funding for education to servicemen is the Servicemen’s Readjustment Act of 1944.

the bill passed the House, Senate Republicans failed to garner a two-thirds vote for cloture, and the attempt to repeal poll taxes was defeated.¹⁶

Again in 1944 and in 1946, Senate Democrats blocked repeal bills with filibusters. After this, civil rights legislation in the federal government fell all but silent for more than a decade, during which time, the Red Scare grew in the United States, and advocating for civil rights became synonymous with anti-Americanism.¹⁷ Americans believed that blacks were vehicles for communist infiltration due to the fact that their lower social status made them susceptible to bribes and intimidation by outside invaders. This belief served to reinforce the maintenance of separate racial spaces in the United States.

Deep South Politics Begin to Shift

This space changed, however, during the 1948 Democratic national convention. States rights Democrats from Mississippi, South Carolina, and Texas withdrew from the Roosevelt ticket in 1944, and by the 1948 election, political leaders throughout the Deep South were dissatisfied with President Truman.¹⁸ Senator James Eastland from Mississippi, in particular, spoke openly against Truman's liberalism. Then, during the 1948 Democratic national convention, the party adopted an official position of support for civil rights issues as well as strong support for Truman's leadership in advancing the civil rights of blacks.¹⁹

Angered and appalled by this, all delegates from Mississippi, led by Mississippi Governor Fielding Wright and former Governor Hugh L. White, along with half of the delegates from Alabama, left the convention because they felt that the party's position on civil rights was too soft. The dissenters reconvened in Birmingham, Alabama and

established the States' Rights Democratic Party, which became known commonly as the Dixiecrat Party. According to V.O. Key, the strongest support came from areas with the highest proportions of blacks, which was reflected in the party's choice for candidates, Strom Thurmond from South Carolina and Governor Wright from Mississippi.²⁰

While unable to gain enough electoral votes to win the presidential election, the Dixiecrats secured 127 votes from the Electoral College, all from southern states, in hopes of throwing the presidential election to the US House of Representatives. The Dixiecrats believed they could parlay their political power into demanding exceptions to civil rights legislation in return for their support. This approach was a failure and revealed that political ideology toward race was not homogenous in the South.

Ideologically, the Dixiecrats, as a whole, were against civil rights legislation. Yet, the lack of consensus within the party regarding race indicates that individual places regarding race were not constructed merely on a bi-racial dichotomy but were more complex.²¹ Some, such as Senator Richard Russell of Georgia, held a states' rights position in determining race issues. While others, such as James Eastland of Mississippi appealed purely to Southern demography. Thus, party members were never able to agree as to how to frame their demands. Further, the South had benefited greatly from Roosevelt's New Deal federal programs, and voters were resistant to side with a political party that threatened northern capital, which was necessary for sustained economic development in the South. Finally, many conservatives felt it better to resolve civil rights issues from within the Democratic Party itself.

Though the states of Mississippi, South Carolina, Alabama, and Louisiana carried the Thurmond-Wright ticket, the attempt to overthrow Truman failed, and the party

ultimately disbanded. Despite this, the brief rise of the Dixiecrats paved the way for a decline of the Democratic Party in the South, though the full effects of this would not be felt for several decades. Also, the Dixiecrat revolt demarcated a new space—the playing field for civil rights in the South. Voting patterns in Mississippi reveal that the white minority in the Mississippi Black Belt would become key to securing future elections for the state’s politicians.²² The superior position in the social space of the region’s white minority was secured only by white identity. Thus, the white residents of the Black Belt stood to lose the most by integration.

Post-war voting patterns in Mississippi, including those from the 1948 election, also reveal a clear division of place in the state between the counties of the Black-Belt and the hills and coastal counties, which were predominately white localities at the time.²³ Delta segregationist Fielding Wright won his seat in the governor’s mansion during the first primary, beating four other candidates, including the comparatively liberal Paul B. Johnson, Sr., who was running for a second term. Wright, a Delta son, would then lead the Dixiecrat Party as its vice-presidential candidate.

Likewise, Walter Sillers, speaker of the state house for nearly twenty years, hailed from the Delta. Sillers staunchly opposed progressive taxation for funding public schools on the basis that, “the people who have the children should pay the tax, and you know the favored few don’t have many children.”²⁴ Hugh White, who enjoyed two terms as governor (from 1936-1940 and from 1952-1956), was a Black-Belt favorite.²⁵ In federal elections, Senator James Eastland of Sunflower County defended his seat in the US Senate in 1954 by carrying the black-belt counties with 71%, the same percentage with which he carried wealthy Jacksonites. As black voter turnout was very low during the

1950s, the key to winning a political election was to appeal to the racial minority of the Black Belt while carrying the affluent citizens of Jackson.

Black Monday, Massive Resistance, and Federal Leadership

Though the federal legislative body failed to produce any viable civil rights legislation during the 1950s, the judicial body produced one of the most important decisions ever handed down by the high court. On May 17, 1954, the United States Supreme Court decided its landmark *Brown* case, effectively outlawing segregation in public education and paving the way for a tumultuous struggle among Americans over the integration of public institutions. Reading the unanimous decision, Chief Justice Earl Warren posed the question, “Does segregation of children in public schools solely on the basis of race . . . deprive the children of the minority group of equal educational opportunities?”²⁶ Answering the question posed by the court, Warren then read, “We believe that it does.”²⁷ The moment it was read, the *Brown* decision created the space of educational opportunity for blacks. However, the threat the decision posed to the identity of the South would not go unopposed. Resistance to integration preceded the high court’s decision, but after the words were read, resistance would pour over the South from the region’s political places—the legislative branches of state governments.

The White Citizens’ Council

The reaction to *Brown* varied across the South. In Mississippi, however, an immediate reaction came from its citizens. Central to massive resistance in Mississippi was the formation of the White Citizens’ Council in the delta town of Indianola in 1954, less than two months after the *Brown* decision. Robert Patterson, a cotton and cattle farmer, called a meeting of fourteen men on July 11, 1954 to discuss the formation of an

organization purposed to influence public opinion regarding Mississippi's authority to maintain segregated schools.²⁸ The first official meeting of the White Citizens' Council was held a short time later in Indianola.²⁹

On April 7, 1956, the Citizens' Council organized nationally at a meeting in New Orleans, as the Citizens' Council of America.³⁰ Other towns and southern states quickly followed suit and formed their own chapters of what would become a national network known as the Association of Citizen's Councils, which included chapters in Chicago, Cleveland, Detroit, Los Angeles, and Washington DC.³¹ The space of resistance created by the Citizens' Council transcended the borders of the South, and by 1956, the Association claimed a membership of eighty thousand and included many local and state-level politicians.

Publically, the Citizens' Council advocated peaceful resistance to segregation. Nationwide, efforts of organized resistance to integration were unparalleled to those practiced by the Citizens' Council, which would become evident in 1962 during a showdown between Mississippi Governor Ross Barnett and the federal government over the admission of James Meredith to Ole Miss. According to historian Neil McMillen, members of the Council organized the event.³² McMillen has also shown that the Citizens' Council was not as peaceful an organization as it had proclaimed itself to be, but it has been suggested by Crespino that the presence of the Council stalled the reemergence of the KKK in Mississippi for at least a couple of years.³³

Shortly after the formation of the Citizens' Council in Indianola, a circuit court justice from Mississippi, Thomas (Tom) Pickens Brady, addressed the organization's membership.³⁴ In his speech, Brady expressed deep fears of miscegenation, and warned

the group “whenever and wherever the white man has drunk the cup of black hemlock, whenever and wherever his blood has been infused with the blood of the negro, the white man, his intellect and his culture have died.”³⁵ He also stressed the need to annul the NAACP, establish a forty-ninth state for blacks, and abolish public schools in order to prevent the integration of the races. Brady’s speech, entitled “Black Monday”^{*} in reference to the day the Supreme Court read the *Brown* decision, was later published as a pamphlet and distributed by the Citizens Council to its members. The document became the first of many pieces of printed propaganda used by segregationists to promote their cause.

Early on, however, propaganda was unnecessary, as Brady’s words were not a rogue opinion. Rather, they were an expression of the majority opinion. Opinion polls from the 1950s show that eight-out-of-ten white southerners, including those of Border States, opposed racial desegregation of public schools. In the Deep South, the statistic was ninety percent.³⁶ Southern political leaders capitalized on this in their reactionary moves to block integration of public schools. The enactment of interposition laws, active defiance of the *Brown* decision and of federal authority, and the formation of state-funded committees purposed to block integration led to what appeared to be, though superficially so, a unified movement to maintain the status quo of the South. Thus massive resistance

^{*} The term “Black Monday” was coined by US Representative John Bell Williams from Mississippi on the floor of the house, because he considered the day of the *Brown* decision to be as disastrous as the day the US stock market crashed in 1929, Black Tuesday, which marked the beginning of the Great Depression.

turned the South into a veritable war zone for many years, and resistance disrupted the places of the South, contributing to sustained tension in the racial spaces of the region.

With racial tensions increasing throughout the South, in the spring of 1956, the *Declaration of Constitutional Principles*, known more commonly as the “Southern Manifesto,” was drafted by US Senators Strom Thurmond of South Carolina, Richard Russell of Georgia, and Harry Byrd of Virginia. The document demanded for the reversal of the *Brown* decision “...by any lawful means,” calling the decision “...unwarranted,” and “...a clear abuse of judicial power.”³⁷ The document stated that the Constitution, its amendments, including the Fourteenth Amendment, and the debates that had preceded the amendments did not address education. Further, the manifesto claimed that the decision itself created “chaos and confusion in the States principally affected”³⁸ and commended the efforts of states to resist the decision. Strangely, the authors of the manifesto identified themselves as a minority opinion. Yet, a combined 101 US Senators and Representatives (ninety-nine Democrats) signed in support of the document, including all those from Mississippi.

Federal Legislation

By the time of the *Brown* decision, Republican Dwight D. Eisenhower had succeeded Truman in the White House. Eisenhower, an advocate of states’ rights, almost silenced the space of the White House on racial relations.³⁹ He believed that the federal government had limited powers in intrastate jurisdiction, and initially, at least, the most he was willing to do from the Oval Office was to promote a gradual change in a few civil rights matters, including employment discrimination and voting rights. He also continued the process begun by his predecessor of desegregating the military.⁴⁰ It has been argued

that rather than passively cause change, as he had hoped, Eisenhower's neutrality served to promote the space of state supremacy in the southern states, which allowed for the resistance of federal orders to integrate. The unintentional byproduct of Eisenhower's leadership was a reinforcement of the South's political place regarding race and states' rights.⁴¹

Despite his disinclination to promote civil rights reform, in a slow but deliberate manner, Eisenhower pushed to model civil rights in Washington DC for the rest of the nation by installing Vice-President Richard M. Nixon to the President's Committee on Government Contract Compliance. Nixon used his influence on the committee to convince the transportation system in Washington DC to hire more black drivers. He also aided the telephone company in the desegregation of its offices. Eisenhower also pressured the public schools in DC to desegregate.

In April 1956, US Attorney General Herbert Brownell proposed to Congress a four-part legislative piece aimed at civil rights.⁴² Initially, Eisenhower was against a provision of the omnibus bill that empowered the Attorney General to pursue public school desegregation. By the time of the general election, however, the president endorsed the bill in its entirety. The proposed legislation was defeated in the Senate, but during Eisenhower's second term, it was revived. Senate Majority Leader Lyndon B. Johnson of Texas helped to bolster support for a version of the bill that eliminated all provisions regarding school desegregation and sent the bill to the Senate Judiciary Committee. In committee, Senator James Eastland modified the bill further before sending it forward to the senate floor. Despite the longest filibuster on record in the US Senate (twenty-four hours, eighteen minutes) by Senator Strom Thurmond, the bill was

passed, and President Eisenhower signed the first piece of civil rights legislation of the century into law.⁴³ Washington had finally entered into a different space, one that would act upon the places of the nation by altering private opinions regarding race, leading to an evolution of identities throughout the nation. The South would evolve more slowly than the rest of the nation.

The Civil Rights Act of 1957, primarily aimed at voting, established a temporary Civil Rights Commission to study voter registration and voting patterns as well as to record testimony from disenfranchised voters. The bill made provisions against voter tampering in federal elections and placed enforcement in the office of the Attorney General. Also, the act led to the establishment of the Civil Rights Division of the Justice Department.⁴⁴

After the act passed, Eisenhower became more vocal in pushing for further legislation due to racially motivated violence, including the bombings of churches and schools in the South. In response, in 1958, a second piece of legislation was introduced into the House to deal with loopholes that had been left in the Civil Rights Act of 1957. That bill would take time to pass the muster of both houses of the legislature. The House Judiciary Committee initially had passed the bill, but the Rules Committee stalled it to prevent it from being presented to the full house. Eventually, the bill made it to the floor, and it was passed.⁴⁵

After a similar stall tactic in the Senate, the bill was passed with amendments. By this point, it was an election year, and both parties were vying for the black vote. Therefore, the House approved the bill as amended by the Senate without trouble. Thus, the Civil Rights Act of 1960 was enacted. The second act provided penalties for attempts

to block voter registration or for blocking court orders related to voting rights. Among other provisions of the act were an expansion of the powers of the Civil Rights Commission, a requirement to provide free education for children of members of the military, and a provision that required the retention of voting records.⁴⁶

The same year, John Fitzgerald Kennedy entered into the White House by way of Congress where he had served in both houses since 1947. In 1960, with Texan Lyndon B. Johnson on the ticket, Kennedy narrowly beat Republican candidate Richard M. Nixon to become the nation's youngest president. Kennedy campaigned on the space of civil rights and racial integration. However, early on, he kept a distance from civil rights issues, in part due to the attention he paid to the Cold War. However, after sending 3000 troops to quell violence in Oxford in 1962 when James Meredith integrated Ole Miss and again the next year to the University of Alabama when Governor George Wallace attempted to prevent the enrollment of two black students, President Kennedy became active in civil rights leadership from the White House.⁴⁷

The same day Kennedy federalized the National Guard in Alabama, he delivered his now famous Civil Rights Address to the nation on television, vowing to submit legislation to Congress to deal with racial discrimination. Immediately, Kennedy proposed legislation to Senate Majority and Minority leaders. The Senate leaders were agreeable to most of Kennedy's proposals but rejected the integration of public accommodations. Kennedy fought them on the point, however, and sent the bill to the House of Representatives, where the bill was referred to the House Judiciary Committee.⁴⁸

In the Judiciary Committee, representatives strengthened the legislation by adding several provisions that were not addressed by the Civil Rights Acts of 1957 and 1960, including the empowerment of the US Attorney General to sue for infringements upon civil rights. Also, the Judiciary Committee expanded the language of the bill so that public places, such as lunch counters would be integrated. The committee then sent the bill to the House Rules Committee, where it would stall until after Kennedy's Assassination. When Lyndon B. Johnson assumed office after Kennedy's death, he dedicated himself to getting the bill passed. Despite a lengthy filibuster, the bill finally passed both houses and was signed into law on July 2, 1964, creating the Civil Rights Act of 1964.⁴⁹

Mississippi's Political Leaders

Senator James Eastland

James (Jim) Eastland's foray into the space of national politics was due to an interim appointment by Governor Paul B. Johnson, Sr. upon the death of U.S. Senator Pat Harrison. Johnson wanted to nominate Eastland's father, but Woods Eastland, a powerful politician in Mississippi at the time, did not want the job. So, Johnson settled for the son. Jim Eastland had previously served in the Mississippi legislature under Governor Theodore Bilbo but returned to private practice when Bilbo left office. When Eastland arrived in Washington, few thought he would stay long or have any national impact.⁵⁰

Eastland was highly revered by the white people of the delta region of Mississippi. Outside of the delta, however, affection for the senator was not so strong. Outside of the South, as he gained power and prestige in Washington DC, he became feared. Clarence Mitchell of the NAACP publically criticized Eastland on many occasions, calling him a

“stinking albatross,” “accessory to murder and treason,” and a “mad dog loose in the streets of justice.”⁵¹ The spectrum of attitude in Washington toward Eastland was similar. According to Sherrill, Roosevelt and Lyndon Johnson acted sarcastically toward Eastland. However, Eisenhower felt trepidation toward the senator. Fellow senator Herbert Lehman once called him “a symbol of racism,” and *Time* magazine dubbed Eastland, the “nation’s most dangerous demagogue.”⁵²

Eastland may have been “mad,” but he was incredibly smart and cunning. He used his place in the Senate to maintain public opinion in Mississippi regarding race, and Mississippians would reward the man who had elucidated the race problem for them by re-electing him time and time again. Eastland showed Mississippians that race was more than an issue of skin color; it was an issue of Communism. In his opinion, it was a threat to the ideology of the South, and that space had to be maintained at all costs. Once his place in Washington DC was secured by the people of Mississippi, Eastland would then use his position of seniority in the Senate to combat legislative spaces that had the power to change the place of the South regarding race.

In his 1954 reelection campaign, Eastland urged Mississippi’s attorneys to provide pro bono services to schools that were defending desegregation cases in federal courts.⁵³ Then, during the 1955 Citizens’ Council Convention in Jackson, Eastland proclaimed, “the Supreme Court of the United States in the false name of law and justice has perpetrated a monstrous crime. . . .The anti-segregation decisions are dishonest decisions . . .The judges who rendered them violated their oaths of office. They have disgraced the high office which they hold. . . .There is no law that a free people must submit to a flagrant invasion of their personal liberty.”⁵⁴

Eastland also was one of the strongest voices in publically tying the Red Scare to integration. He claimed that the sociologists the NAACP had used to argue their case in the Supreme Court were Communist agitators. On many occasions, Eastland stated that integration was a Communist ploy to “mongeralize the races,”⁵⁵ a position he reaffirmed in a public speech the day after the *Brown II* decision was handed down.⁵⁶

In 1956, Eastland became the chair of the Senate Judiciary Committee upon the death of liberal Senator Harley Kilgore. His appointment was made on the recommendation of then Democratic Majority Leader Lyndon Johnson.* In this post, Eastland had the power to retard, if not prevent, the civil rights movement, not only in Mississippi, but also in the entire United States. It was a power that he used time and again. He participated in every Civil Rights filibuster that took place in the US Senate over the course of twenty-four years. He shut down 122 Civil Rights bills that came out of the Civil Rights Subcommittee. He also stalled black and Jewish nominees to the bench, including Thurgood Marshall’s Second Circuit bench seat, which Eastland was able to stall nearly a year.†

* According to Eastland, Johnson “worked it out” so that people who opposed his nomination would give speeches against Johnson’s appointment but would not request a roll call vote. See James O. Eastland Oral History, interview by Joe B. Frantz, February 19, 1971.

† Sherrill claimed that Eastland told Robert Kennedy, “tell your brother that if he will give me Harold Cox, I will give him the nigger.” Cox was an old college buddy of Eastland’s from Ole Miss, and he was appointed to the US District Court for the Southern District of Mississippi by John F. Kennedy, straight out of private practice in Jackson.

Eastland was a supporter of the John Birch Society. According to Sherrill, Eastland helped to establish the White Citizens' Council in Mississippi and also advised both Mississippi's and South Carolina's Citizens' Councils and the Patriots of North Carolina. He publically called for southerners to defy the *Brown* decision and accused the high court's justices of making their decision based upon their readings of communist and Anti-American literature. He was close friends with Senator Joseph McCarthy, and shared McCarthy's attitude towards Communism and sexuality.*

Senator John C. Stennis

United States Senator John C. Stennis won his position in the US Senate during a special election held upon the death of Senator (and former Governor of Mississippi) Theodore Bilbo. Stennis did not favor integration, but he believed that violent outbursts by Mississippians would weaken the image of the state across the nation, and the public opinion of outsiders was paramount to maintaining power in Washington DC. In fact, Stennis advocated bargaining agreements with blacks. In return for not bringing lawsuits

Cox would go on to oversee all Civil Rights cases in the district until his death in 1988.

He did not allow the bench to stifle his opinion of blacks and often referred to them as "baboons." Also, his court decisions were so unsound legally that they often were overturned in the Fifth Circuit Court. See Sherrill, *Gothic Politics*, 212; Taylor Brands, *Parting the Waters: America in the King Years 1954-63* (New York: Simon & Schuster, 1989).

* Sherrill argues that Eastland would have prevailed in Washington had there been no Senator McCarthy and hints that Eastland may have been responsible for McCarthy's dealings with the House Committee on Un-American Activities.

upon the state, the senator promised to all blacks that they would finally receive what had been promised by the *Plessy v. Ferguson* decision in 1896—equal education.*

In the fall of 1949, Stennis contacted Dean Robert Farley at Ole Miss Law to request that the dean identify several third-year students to prepare briefs for the senator for the upcoming legislative session.⁵⁷ Three bills, in particular, concerned him: the Fair Employment Practices Commission Bill, a bill aimed to punish lynching, and an anti-poll tax bill. The senator expected a tough year ahead for civil rights legislation, and the junior senator needed all of the help he could get. Stennis' prediction came to pass, as the first piece of Civil Rights Era legislation would not pass for eight years.

Governor Hugh White (1952-1956)

In 1951, Hugh L. White was elected to his second term as Governor of Mississippi. During his first term from 1936 to 1940, White, a wealthy businessman, spent most of his energies developing the industrial space of the south. By his second term, however, race had become a central issue in the political space of the state. Prior to the *Brown* decision, Governor White worked with the legislature to formulate ways to block integration, namely by creating legislation to improve black schools. In 1953, a school equalization amendment was passed as a means to accomplish legal segregation.⁵⁸ That amendment provided equitable pay for black teachers in addition to equitable facilities and school transportation systems.

* Crespino argues that the non-violent approach to segregation advocated by Stennis and others actually paved the way for segregation to persist in Mississippi. See Joseph Crespino, *In Search of Another Country: Mississippi and the Counterrevolution* (Princeton: Princeton University Press, 2007).

Then, just prior to the *Brown* decision, the legislature established the Legal Educational Advisory Committee (LEAC). The twenty-five-member committee was charged with strategically planning and proposing legislation that would reinforce the legal maintenance of segregated schools in the state. One of the first proposals of LEAC was to amend the state constitution in order to empower the legislature to abolish the state's system of public schools. The *school abolition amendment*, as it was called in newspapers, passed both houses of the legislature by unanimous vote.⁵⁹

Governor James P. Coleman (1956-1960)

By the 1955 gubernatorial race, dispositions toward social issues, including race, had begun to evolve in Mississippi. The post war “Delta mind,”* shifted somewhat toward a more moderate space.⁶⁰ During the election year, conservative candidates Fielding Wright and Ross Barnett won primaries, but neither made it to the general election. The runoff was a showdown between moderate state Attorney General James P. (J.P.) Coleman and more liberal Paul B. Johnson, Jr. It was Coleman that carried the Black-Belt and the majority of northern and central Mississippi. With his win, Coleman managed to keep the state tied to the Democratic Party, although only by a thread.⁶¹

Coleman, a staunch segregationist, was concerned with the alignment of Mississippi with the National Democratic Party and was opposed to forms of anti-integration defiance that threatened an already wavering political identity of Mississippi voters in relation to the national platform.⁶² Though his efforts failed, Coleman urged

* *Delta mind* was a term used by V.O. Key, Jr. to describe Black Belt voting politics in Mississippi. See Key's work, *Southern Politics in State and Nation* (Knoxville: UT Press, 1984), 229.

fellow Mississippians to vote for the Democratic ticket in the 1960 Presidential election. Coleman understood that doing so would protect several important Democratic committee appointments in Congress.

Coleman's journey to the governor's mansion was unusual. After campaigning for Aaron Ford's election to the US House of Representatives, Coleman accompanied Ford to Washington DC and clerked for the representative for four years. During his time in the nation's capital, Coleman attended George Washington University (GWU) Law School, and while visiting Mississippi during a break from school, he took and passed the examination to enter into the Mississippi Bar. Coleman, however, wanted to finish his degree. So, he returned to GWU and finished his LLB in 1939. Upon graduation, Coleman returned to Mississippi and established a private practice.⁶³

Eventually, Coleman left private practice for the bench. He served as Circuit Court Judge for the Fifth Circuit from 1946 to 1950. Intent upon making his way to the Governor's mansion, Coleman announced that he would not run for reelection in 1950, though he continued to quietly consider a run. However, in 1950, the state legislature increased the number of justices on the Mississippi State Supreme Court from six to nine, and Coleman was appointed to a seat on the bench and served from September 1 through October 23, 1950.

When Mississippi Supreme Court Judge L.A. Smith died unexpectedly in October, Governor Wright appointed the state Attorney General to fill the vacated bench seat and asked Coleman to take the vacated position in the Attorney General's office. Coleman initially declined because the post included a \$1500 cut in pay and also because he did not want to endure a run for reelection the very next year. Coleman, having his eye on the

governorship, knew that no attorney general in Mississippi had ever won a race for governor, but his long-time friend, US Senator John C. Stennis urged him to accept the job. So, he did and served until he won the Governor's race, making him the first (and only) attorney general to also become Governor of the State of Mississippi.⁶⁴

As Attorney General, Coleman had worked with Governor Hugh White in his efforts to quietly preserve segregation in the state.⁶⁵ A week after he won the Democratic primary for the Governor's seat, a black teenager, Emmitt Till was murdered. Till, was from Chicago and was visiting a relative in the small Mississippi town, Money. Till's murder drew media attention from across the nation. *Jet* magazine ran the story and published a photo of Till's partially decomposed body lying in the casket, which shocked the nation and wounded the image of the state in the minds of outsiders.^{*} Even Mississippians were outraged by the teenager's murder. The *Jackson Daily News*, which traditionally had been sympathetic to segregationist causes, wrote "the killing must have been the act of a depraved mind, or minds."⁶⁶ Till's murder was an impetus for changing identities of many Mississippians who did not advocate violence as a means of maintaining segregation. Because of this, Coleman would be forced to change his approach to segregation.

Practical Segregation. J.P. Coleman was the last Governor to be elected before the forcible change of race relations in Mississippi prompted by the *Brown* decision. During his inaugural address in 1956, Coleman declared that he had "... not the slightest

^{*} Till's body was returned to Chicago at his mother's request, and his casket was open for viewing for four days. See James T. Patterson, p. 86. *Jet* magazine continued to cover the story of Emmitt Till's murder, including the investigation for more than a year.

fear that four years hence when my successor stands on this same spot to assume his official oath, the separation of the races in Mississippi will be left intact and will still be in full force and effect in exactly the same manner and form as we know it today.”⁶⁷ By the end of February, Coleman had signed into law four bills scoped to block the integration of school, including the “Interposition Resolution,” the state’s official declaration of defiance of the *Brown* decision.⁶⁸

Coleman’s platform promised Mississippians that racial segregation of public schools would remain in Mississippi. Unlike other prominent figures from Mississippi, Coleman understood the importance of working within the place of the law to maintain segregated space. In fact, Coleman had visited Washington DC in 1952 and again in 1953 in order to observe arguments in the Supreme Court, including those of Thurgood Marshall, so that he could begin to craft a legally-sound segregationist response to arguments for integration. He also used the very same form of sociological argument used by the NAACP in their arguments to the Supreme Court.⁶⁹ However, Coleman’s plans were balked because of the murder of Till. That murder brought persistent negative attention to the state, and Coleman was unable to quietly maintain segregation while the state was under the microscope of northerners.

Also, during his time as governor, Coleman was often at odds with the Council. He both refused membership as well as refused speaking engagements at Council rallies, but he was also careful to not align with black leaders. According to the Governor, he sent word to Martin Luther King, Jr. that he would not be allowed to speak in Mississippi until its people had time to “cool off”⁷⁰ from the *Brown* decision. According to Sherrill, Coleman’s contempt of the Citizens’ Council was due to the fact that the governor did

not believe in wasting time with anti-integration actions because he believed that integration would never happen. He believed that using legislative action against the Supreme Court would prevent integration in perpetuity. At one point, Coleman even claimed that, “any legislature can pass an act faster than the Supreme Court can erase it.”⁷¹ At the same time, he expressed no interest in attempting to ban the NAACP in the state. The extremist camp of the Citizens’ Council was a place Coleman wished not to be. Careful to maintain distance from the organization and its philosophy, he branded the term *practical segregation*, to distinguish his means for maintaining segregation from those of the Citizens’ Council.⁷²

Coleman’s position on race may have been in a moderate space, but his actions often conflicted with the ideology of his moderate platform, making the governor appear to be dubious. He was in favor of donating state land for a site to house an integrated state Veteran’s hospital. He also refused to have pro-integration statements removed from state textbooks. He publically criticized the response of Arkansas Governor Faubus to the Little Rock school crisis, and he was against a legislative investigation of the riots at Ole Miss in 1962. Toward the end of his term in office, Coleman even contacted the FBI to investigate the murder of Mack Charles Parker in the southern portion of the state.⁷³

Yet, Coleman signed into law a repeal of the state’s compulsory education laws in an attempt to block integration by closing schools. The same year, he signed an act that allowed businesses the right to choose their clientele and also an act that required public transportation companies to maintain separate bathroom facilities for those traveling intrastate, and while he never exercised the power, he also signed legislation that allowed for the closure of public schools by executive order.⁷⁴

Moderate spaces, however were not favored by most legislators and judges in Mississippi. Judge Tom Brady claimed that Coleman was “in league with integrationists and refused to oppose left-wing elements in the Democratic Party in order to advance his chance for national office.”⁷⁵ Outside of the South, Coleman was viewed as a progressive. However, his governorship reveals that he was much more complex.

In 1963, Coleman attempted a second run for governor but lost to Paul B. Johnson, Jr., the son of former governor Paul B. Johnson Sr. Then, in 1965, US Senators John C. Stennis and James Eastland recommended Coleman for appointment to the Fifth Circuit Court of Appeals. The nomination was strongly opposed by civil rights groups, including the NAACP, the Mississippi Freedom Democratic Party, the Southern Christian Leadership Conference, and the Congress of Racial Equality.⁷⁶ Despite this, the US Senate, in a vote of sixty-six to eight, confirmed Coleman. The same duplicity that failed to get Coleman elected a second time for Governor actually aided him at the federal level, as both conservative and liberal senators were appeased by what they perceived to be a moderate racial ideology.

Mississippi State Sovereignty Commission. On March 20, 1956, House Bill No. 880 was introduced that provided for the establishment of the Mississippi State Sovereignty Commission (the Commission) as an executive body. United States Senator James Eastland advocated a state-level organization in response to the crisis of integration that would operate much like the FBI, and lawmakers within the state were eager to make such an organization a reality. Coleman was not necessarily supportive of the bill, but he was opposed to the Citizens’ Council more than he was opposed to a state-supported surveillance body. So, in an effort to antagonize the activities of the Citizens’

Council, Governor Coleman supported the formation of the Commission because he thought he would be able to use the body to watchdog and control the Citizens' Council. The Commission was the first of many state-level intelligence organizations to be formed in the South and included Mississippi's governor, lieutenant governor, attorney general, speaker of the House of Representatives, three house members, two state senators, and three private citizens who were appointed by the governor.⁷⁷

According to former Mississippi Governor William Winter, who was a member of the state legislature, when the Sovereignty Commission was proposed it was presented as an initiative that would provide positive public relations for Mississippi on a national level. The representatives of the state would highlight progress within the state to representatives of the media.⁷⁸ In its conception, the Commission was not painted to be an investigative agency, which helped with the passage of the bill. In fact, the bill first passed in the House of with relative ease. According to Winter, some realized that under different leadership in the state, the agency could become problematic "to free speech and to a democratic society."⁷⁹ Because of this, the bill was held in the senate on a motion to reconsider. However, when the motion was called up, it was passed rather than being reconsidered. There also had been reservations to approve the accompanying appropriations bill, but that bill too passed. Thus, on March 29, the Mississippi State Sovereignty Commission was formed, and a week later, the Commission was granted \$250,000 in operating funds by the state legislature.⁸⁰

Coleman was not successful in using the Commission to prevent violence in Mississippi, but he was rather successful in using it to keep many violent acts out of the media. During the early years of the agency, it appears to have been run as intended, as a

public relations agency, but a lack of action paid to segregation by the Commission enraged hard segregationists, and those in the legislature responded by decreasing the Commission's funding from \$250,000 to \$150,000 and also by attempting to pass legislation that would allow local governments to funnel money to private organizations to advance the fight against integration.

Over time, the Commission began to order the covert surveillance of civil rights leaders in the state including Medgar Evers. Governor Coleman also led the Commission to aid Mississippi Southern University President William D. McCain in the crusade against the admission of Clyde Kennard to the university during the Kennard scandal.* Members of the Commission kept a file on Kennard's background, and when nothing turned up that would prevent his admission the university, the Commission called upon African Americans from the Hattiesburg area to try to persuade Kennard to not seek admission. When James Meredith announced his intentions to seek admission to Ole Miss, Coleman himself called Meredith to ask that he cease to seek admission to the university.

Governor Ross R. Barnett (1960-1964)

After Coleman's tenure as governor ended in 1959, Ross Barnett, an avid segregationist, attempted his third try to win the statehouse. Backed by the Citizens'

* The Clyde Kennard scandal is a reference to his third attempt to enroll at Mississippi Southern College in 1959, which ended in his imprisonment. He had previously attempted to gain admission to the college in 1956 and again in 1957. For further reading, see David G. Sansing, *Making Haste Slowly: The Troubled History of Higher Education in Mississippi* (Jackson: University Press of Mississippi), 148-154.

Council, Barnett's campaign platform *was* segregation. By the time of his third campaign for governor, the federal government had passed civil rights legislation, and the space of ideology had begun to diverge between the state and the federal government. Barnett promised the state to uphold the place of white supremacy in the state and also promised government positions to a large number of his campaign donors.⁸¹ Thus, Barnett received strong support, especially from low socioeconomic income whites in the state, and he took Hinds and Adams Counties in the general election, landing him in control of both the state and the Sovereignty Commission.

Under Barnett's leadership, the place the Commission occupied in the space of the state changed. According to William Winter, the Citizens' Council took over the Commission and "turned it into a little Gestapo."⁸² The legislature increased the Commission's budget back to the original appropriation of \$250,000, and Barnett provided monthly grants to the White Citizens' Council from the Commission budget in addition to granting numerous one-time allocations. One such was a grant of \$20,000 in start-up funding followed by \$5000 monthly payments to William "Bill" Simmons, the Citizens' Council Director. Simmons used the funds to travel to Washington DC to tape interviews with prominent Washington conservatives and later air them on the Citizens' Council radio program, "The Citizens Council Forum."⁸³

Barnett appointed Erle Johnston, who had previously served as a publicity manager during Barnett's campaign, as the Director of the Sovereignty Commission. Erle Johnston joined the Citizens' Council in the early years and claims that in the meetings he attended, no plans to fight integration were ever mentioned. Rather, the organization pushed "massive membership"⁸⁴ as its game plan. Johnston described the meetings of his

local chapter as charged rallies where the council members would make grand statements about what they were going to do, prevent, or enforce. At the end of the meetings, dues were collected but nothing ever seemed to happen. Everyone just felt “better,”⁸⁵ even though there had been no action.

After Johnston became director of the Commission, he delivered a graduation commencement speech at Granada, entitled, “A Practical Way to Maintain a Separate School System in Mississippi.”⁸⁶ Despite the title, Johnston’s speech was viewed as being soft on the segregation issue and was perceived as encouraging cooperation with blacks regarding integration. After that, the Citizens’ Council publically identified Johnston as an integrationist.* Despite being an effective publicity manager for others, Johnston was unsuccessful at fighting back in the newspapers and saving his own image.

Johnston distanced himself from the situation, but the damage was done. State representative Wilburn Hooker, who also served on the State Executive Committee of the Citizens’ Council, sent Barnett a telegram demanding the governor disband the entire Commission.⁸⁷ In an effort to stall, Governor Barnett cancelled a regularly scheduled monthly meeting between the Sovereignty Commission and the Citizens’ Council, and told Johnston that he needed to step down from his directorial position. He also told Johnston that it was out of his hands. The Citizens’ Council would fire Johnston regardless of the governor’s wishes.⁸⁸

* The state’s whites were not the only ones upset by Johnston’s speech. He also received backlash from Medgar Evers, who at the time was working for the NAACP. See Erle Johnston, interview by Orley B. Caudill, July 30, 1980.

The members of the Citizens' Council accepted Johnston's resignation as sufficient retribution for his actions. However, Johnston's resignation was never reported to the press, and the media assumed the entire controversy had blown over. After that, Citizens' Council director Bill Simmons quietly became Barnett's speechwriter, despite Erle Johnston's perceived official position as Barnett's press secretary.⁸⁹ Bill Simmons also took on an additional duty during Barnett's time in office—acting as the governor's chief advisor throughout the Meredith Crisis at Ole Miss.

Barnett may have failed in race relations, but he was progressive in bringing new industries into the state. He also, upon recommendations by Jackson businessmen, authorized a consultant study that led to the formation of the Mississippi Research and Development Center.⁹⁰ It would not be enough for Mississippians, however, to later reelect Barnett. In an attempt to reenter the governor's mansion in 1967, Barnett finished fifth.⁹¹

Governor Paul B. Johnson, Jr. (1964-1968)

Paul B. Johnson, Jr. served as Lieutenant Governor during the Barnett administration. Johnson had been on campus with Barnett the day James Meredith integrated Ole Miss and had been photographed with his hand up, which the press construed to be blocking some of the marshals who were on campus to assist in Meredith's integration of the campus.* This, he used to his advantage during his campaign for the governorship and made his campaign slogan, "Stand Tall With Paul." In previous campaigns, Johnson ran on a platform of fiscal liberalism. During the 1963 race,

* It turned out that the photo was one in a series where Johnson was moving his hand up to shake the hand of the marshal.

however, his campaign turned from economic to racial. Using increased tension in the racial place of the state to his advantage, Johnson faced off with J.P. Coleman, who was trying to reclaim his own place in Mississippi's political structure. Because Coleman had earned the mistrust of many Mississippians during his first trip to the governor's mansion, he could not win the votes needed to put him back in the governorship, and Johnson enjoyed a substantial victory, sweeping the lower socioeconomic status whites and most rural voters.⁹²

Johnson never spoke against segregation, but he also refused to endorse integration, thus giving him a moderate appeal to Mississippians without ever having to publicly identify himself as a moderate. Unfortunate for Johnson, his victory at the polls won him the mistakes of his predecessor.⁹³ After the Meredith crisis, Mississippians who had believed that the state must be protected from threats of Communism and miscegenation also believed that its citizens must remain vigilant at all costs. It was after Johnson's election that the KKK formally organized in Mississippi, and Klan violence raged throughout the state. During the Freedom Summer of 1964, three civil rights workers were slain by the KKK and buried in an earthen berm in Neshoba County, a crime that involved the local law enforcement.* This, once again, brought Mississippi

* Freedom summer workers Andrew Goodman and Michael Schwerner, were both from New York. The third slain was James Chaney, a black resident of Mississippi. The three were arrested and held in the county jail to give members of the KKK time to organize. Once released, the three were followed by local law enforcement officers and eventually pulled over. Goodman and Schwerner were shot at point-blank range. Chaney was beaten severely before being shot. The story has been chronicled by Seth Cagin and

into the national media spotlight to a sea of shocked Americans who became more convinced than ever that the South needed saving. Conditions within the state became so unstable that Johnson eventually sought the assistance of the FBI. His cry for help led to the largest FBI field office at the time being established in Jackson for the express purpose of combatting Klan activity in Mississippi.

Governor John Bell Williams (1968-1972)

Before serving as Governor of Mississippi from 1968-1972, John Bell Williams served his home state in the US House of Representatives from 1947 until he moved into the governor's mansion. An advocate of states' rights and avid segregationist, Williams had supported the failed Dixiecrat ticket in 1948 and signed the Southern Manifesto. After the *Brown* decision, Williams delivered a speech on the floor of the house during which he declared the day of the decision to be *Black Monday*.⁹⁴

During the gubernatorial campaign of 1967, seven candidates had thrown their names into the hat, including Hattiesburg country music singer Jimmie Swan, Ross Barnett, John Bell Williams, and the more moderate state Treasurer William Winter. During the 1960s, evidence of an evolution of political identity of the state began to emerge as black voter registration rose slowly but continually throughout the decade. During the primaries, Winter led by capturing the black vote as well as high-income whites. Williams came out the strongest of the conservatives. In the runoff, however, Williams captured the vote from the lower white class and hill counties, where political

Philip Dray in *We are Not Afraid*, the book that inspired the movie *Mississippi Burning* (New York: Bantam Books, 1988).

ideologies remained very conservative, thus defeating Winter with 54% of the total vote.⁹⁵

Mississippi Democratic Freedom Party

In time for the passage of the Civil Rights Act of 1960, Mississippi legislators strengthened the effort to block black voters by amending the 1890 Constitution to include a stipulation that a voter is “of good moral character.”⁹⁶ Two years later, a statute was passed that required the names of those who applied for voter registration to be published by newspapers for two weeks. Alongside, the South-wide Voter Education Project spent more money in Mississippi than any other state to register voters, but at the time of the passing of the Voting Rights Act of 1965, Mississippi had the lowest number of newly registered voters, and a mere 6.7% of the blacks of voting age were actually registered.⁹⁷ While federal leaders had been focused on civil rights legislation, the evolution in the identities of black Mississippians due to enfranchisement was being countered by violence and intimidation within the state. By the time Martin Luther King, Jr. delivered his now famous, “I Have a Dream” speech, black Mississippians were tired of waiting on Washington DC and were ready to take things into their own hands.

As opposition to black voter registration remained strong and often violent, three black activists in Mississippi, Fannie Lou Hamer, Ella Baker, and Robert Moses, banded together to create a drive for protest ballot for the office of Governor, which became known as the *Freedom Ballot*. Hamer, Baker, and Moses all had been working with the civil rights groups, the Student Nonviolent Coordinating Committee (SNCC) and the Council of Federated Organizations (COFO), in coordinating voter registration drives, though they proved to be very unsuccessful. Then, in the summer of 1963, Allard K.

Lowenstein, a graduate of Yale Law and the dean at Stanford University Law School, visited Mississippi to discuss the voter situation with Moses.⁹⁸ During their conversations, the two conceived what would become called the *Freedom Ballot*, an integrated mock election that they hoped would not only send a signal to the Kennedy administration that it had failed the black voter but would also serve as voter education for blacks. To aid in the project, though much to the discontent of black SCOC workers, Lowenstein organized over seventy students from Yale and Stanford to assist in rallies and mock voter registration activities. Despite persistent harassment by local police, in the fall of 1963, nearly 80,000 blacks and even some whites “elected” black candidate Aaron Henry as Governor.

Tempering the excitement generated by the success of the Freedom Ballot, the Voter Education Project announced that funding to Mississippi would be terminated, and weeks later, President John F. Kennedy was assassinated. Early the next year, the racial space of the state grew increasingly tense, as the Ku Klux Klan had begun to reorganize. So, the COFO wagered the success of the Freedom Ballot by organizing mass local voter drives during which blacks would register to vote in droves rather than going a few at a time. They also planned for a return that summer of students from Yale and Stanford in increasing numbers to assist. Then, in April 1964, the COFO established the Mississippi Freedom Democratic Party (MFDP) in hopes of unseating regular delegates at the Democratic National Convention that fall.

President Lyndon B. Johnson, who had assumed the presidency upon the assassination of John F. Kennedy, intervened at the convention in Atlantic City by ordering the Credentials Committee to not rule on MFDP or to send the decision to the

full body. Johnson, Vice-President Hubert Humphrey, and party leader Walter Mondale offered instead a concession. Rather than unseating delegates of the Mississippi Democratic Party, the committee offered the MDP two non-voting seats at the convention. The members refused, and angry sympathizers from around the nation bombarded the White House with letters of protest for more than a year. The MDP had failed, but the 1964 Democratic National Convention was the impetus for the Voting Rights Act of 1965.

CHAPTER III

REBEL HISTORY, REBEL PRIDE

“It is well known, that for a period of a thousand years, the Bar has been the road to the titles, the power of the politician.”

Jacob Thompson

The Birth of the Rebels

The University of Mississippi (UM) was chartered on February 24, 1844.¹ When Governor Albert Gallatin Brown signed into law the school’s charter, he stated “those opposed to us in principle cannot be entrusted to educate our sons and daughters.”² Thus, a new place was created in Oxford, Mississippi to educate the state’s sons and daughters and to maintain their southern identities. The charter authorized a governing board, the Board of Trustees of the University of Mississippi (BOT), comprised of thirteen members and granted them control over the university’s finances and curriculum. The BOT met only twice per year. A January meeting was held in Jackson while Mississippi legislators were in session, and a second meeting was held in Oxford in July during commencement. In the interim, the board’s executive committee handled decisions that needed to be made.

Members of the newly formed university board were granted terms in perpetuity and empowered to name their successors. This was meant to prevent board members from becoming caught between the university and the state’s political leaders but had an unintended effect of contributing to the opinion of Mississippians that the university was as an elitist institution, as all of the original members of the BOT were either wealthy planters or members of the Mississippi Bar.

Construction of university buildings began in 1846, and in the summer of 1848, the BOT met to decide the curriculum and to name the president and faculty members of the university. Many of the board members rejected religious coursework in favor of philosophy, but after much debate, the board decided upon a traditional classical curriculum, including a course in Christianity. The BOT appointed George Frederick Holmes as the university's first president as well as professor of moral and mental philosophy. Holmes was a member of the South Carolina Bar and was one of only twenty-six university presidents in antebellum America that was not a minister. He began his professional career as a writer but abandoned the craft due to fiscal reasons, as publishers tended to pay low salaries at the time. Before his appointment to Ole Miss, Holmes served as a professor of classical literature at the University of Richmond and as the chair of history and political economy at the College of William and Mary.³

The BOT named three additional faculty members. Albert Taylor Bledsoe, a Kentucky native and close friend of and advisor to Abraham Lincoln, was named as the chair of Mathematics and Astronomy. Bledsoe had practiced law in Springfield, Illinois alongside Lincoln before moving to Oxford to teach at Ole Miss. Mississippian John Waddel, a Presbyterian minister and headmaster of Montrose Academy in Jasper County, was named as the chair of Greek and Latin. Finally, John Millington was named as the chair of chemistry and natural sciences. Millington had previously held positions at Oxford University, the Royal Institution of Great Britain, and the College of William and Mary.⁴

The university opened to eighty students on November 6, 1848. The fee for tuition was thirty-seven dollars for the ten-month session, and room and board was

eighty dollars. Optional services were made available to students for an additional charge and included stove wood and laundry service. Attendants were made available to build fires, draw bath water, and clean dormitory rooms for a fee of five dollars. In 1856, the BOT began to hire^{*} slaves from local slave owners (and from some faculty members) to maintain the campus grounds and charged all dormitory students the five-dollar fee to cover the costs. Slaves were housed in their own quarters and were not allowed to leave the campus.⁵

American Legal Education

Before law schools began to open in the United States, aspiring attorneys studied as apprentices before admission to their state bars. This was a byproduct of patterning American colleges after English schools, as apprenticeship was the standard in the English legal system. However, law schools were not born directly out of apprenticeships. Between was a period of time in the United States when attorneys expanded their apprenticeship programs and opened their law offices to become proprietary schools.[†] New Haven Law School was one such program. It is unclear when the New Haven Law School began accepting students, but the original proprietor, Seth Staples, began keeping a record of students in 1819. Staples left New Haven in 1824 to

^{*} Sansing uses the word *hired*, but the arrangement described by him indicates that the slaves were rented from their owners. See Sansing, *UM History*, 54.

[†] The one exception to this is Harvard Law School, which claims to be the oldest continually operating law school in the US. Founded in 1817, Harvard Law did not grow out of a proprietary school. However, by 1829, Harvard had but a single student left and had to reorganize in a similar fashion to other legal programs in order to survive.

pursue private practice in New York City,^{*} but the school persisted under the leadership of Staples' former student and law partner, Samuel Hitchcock. The last of the three now recognized founders of Yale Law School (Yale Law), David Daggett, joined Hitchcock at the New Haven Law School when Staples left.⁶

Yale College (Yale) had previously employed a single Professor of Law, which had discontinued in 1810. Then, in 1826, the college revived the position and invited Daggett to assume the professorship. It is unclear exactly when Hitchcock joined Daggett, but records indicate that it was at some time the same year. At the time, the Yale Corporation was not well endowed and took no financial responsibility for the law courses, instead allowing Daggett and Hitchcock to teach at their own risk, which they did for nearly two decades.⁷

The Sterling Fellowship was first awarded to law students at Yale in 1929. The fellowship was made possible by the bequest of John W. Sterling, a graduate of Yale's 1864 undergraduate class. Sterling attended law school at Columbia University before making a fortune practicing corporate law, and when he passed away in 1918, Sterling left three-quarters of his estate to Yale to be used to endow professorships and prizes and to found scholarships and fellowships. After his estate was settled, the total bequest was about \$18 million.[†] At the time, Sterling's gift was the largest non-founding donation made to a private institution in the United States.⁸ The endowment continues to

^{*} Interestingly, Staples would go on to represent some of the prisoners of the *Amistad* during the habeas corpus proceedings in the US Supreme Court.

[†] According to the Consumer Price Index Inflation Calculator, this would have the equivalent buying power as nearly \$284 million in 2014.

provide financial assistance to Yale students, and the Sterling Fellowship remains an honor to its recipients.

Ole Miss Builds Political Training Ground

At the time the University of Mississippi was chartered, only three public law schools had opened in the United States at the University of Virginia, University of Maryland, and University of Pennsylvania. Southern men who desired a formal legal education had begun to migrate to those locations for legal training. This troubled members of the university's board, most of whom were lawyers, because those places espoused ideologies that were incompatible with those of the South. Along with members of the Mississippi bar, the BOT rallied the support of legislative appropriations for a professorship of law at Ole Miss. They met in Oxford on January 12, 1854 to draft a proposal to submit to the state legislature. The document expressed the desire to retain the men of Mississippi for legal training, as the schools in the East might be "antagonistic. . .to Southern views of the right philosophy of government." Further, they argued that if a law school resided in Mississippi that the lawyers of Mississippi could ensure that the school would "never disseminate views of society and government, which would prove prejudiced to Southern interests."⁹

After the legislature approved appropriations for the position, Ole Miss President Longstreet, a graduate of Yale University, and the president of the BOT, Jacob Thompson, began making plans for a full law department. Thompson appealed to the state legislature to secure funds. Addressing the Mississippi legislature that year, Thompson appealed to political desires of the legislature stating that it was "well known that for a period of a thousand years the Bar has been the road to the titles [and] the

power of the politician. . .Our ambitious youth go to the east for instruction in this department, for it is to be found there alone.”¹⁰ Less than two months later, the state legislature approved a Professorship of Governmental Science and Law at Ole Miss. Thus, the educational tie to the political structure of the state was constructed.

The Board, however, had difficulty finding a person who was willing to accept the job. They first extended an offer of appointment to the Honorable Edward C. Wilkinson, a member of the BOT, but he rejected the appointment. Then, an offer was made to the Honorable Carswell R. Clifton, who also declined. The third offer led to the appointment of William Forbes Stearns as the law department’s first professor. Stearns, a native of Vermont, settled in Mississippi at age nineteen. He became an attorney by way of apprenticeship in Holly Springs and quickly made a name for himself as the state’s most successful equity lawyer. As the grand orator of the local Masonic Order, Stearns had been the principal speaker at the ceremony of the laying of the cornerstone of the Lyceum building, the first structure constructed on the campus of Ole Miss in 1846.¹¹

In the fall of 1854, the first law class of seven students convened at the University of Mississippi in the Lyceum building. Three of the original seven students received their Bachelor of Laws (LLB) degrees in the 1856 commencement along with three other students who had transferred into the law class during the 1854-55 academic year. Of a total enrollment of 170, the law program produced sixty-five antebellum graduates, most from Mississippi.¹²

In 1857, the state legislature passed the “Act in Relation to Attorneys and Counselors in Law” that granted equivalence to a court license to all graduates holding

the LLB to practice in all courts of the state. Despite the rapid growth of the law school along with the guaranteed license to practice in the state, the newly established University of Mississippi School of Government Science and Law immediately did not replace the apprenticeship system.¹³

By August 1861, a mere four students were preregistered for the fall term, as most students had already marched off to serve the Confederacy in the Civil War. Then Chancellor Barnard and law professors Stearns, Trotter, and Lamar all proffered their resignations. Stearns was to remain in Oxford to tend to the law library but soon was driven away from Oxford by its residents. Stearns was a native of Holly Springs, but his second wife was not. Stearns had married Mary Jane Ferris, a native of Peru, New York just two years before the war. As the Civil War raged on, sentiments toward northerners flared, and the presence of northerners in the South was not tolerated. Stearns' wife was an outsider, and Stearns' identity was changed from Mississippian to turncoat, not when he married her but after the war escalated. This caused the law professor and his bride to return to her hometown in Peru, New York. James Trotter returned to his law practice in Holly Springs for a short time before assuming a seat in the circuit court. Professor L.C.Q. Lamar was commissioned as a Lieutenant Colonel in the Confederate Army and left Oxford for Virginia. By 1863, Union troops occupied all of Oxford, including the university campus. The law school would not reopen until the fall semester of 1866.¹⁴

Reconstruction in Ole Miss Law

Mere months after Confederate Army General Robert E. Lee surrendered at Appomattox, Mississippi Governor William L. Sharkey convinced the BOT of Ole Miss to reopen the university.¹⁵ By that point, Lamar had entered into the political space of

the state and was seldom present on campus. Between politics and his private practice, his plate was full. Lamar also strongly opposed the university board, composed at the time of all Republicans. He often tried to stir the board, but he had become known as a trouble-maker due to frequent outbursts during court. One time, while defending members of the KKK, he struck a marshal in open court. So, members of the BOT chose to not engage Lamar. He eventually became dissatisfied with his position and his inability to rouse the BOT, and Lamar resigned from Ole Miss.¹⁶

Like other places in the South, Reconstruction in the law school was a difficult process. Though no blacks ever sought admission to Ole Miss during Reconstruction, rumor swirled the state that blacks would soon seek entrance into the historically white university. In 1871, the state legislature decided to forestall any attempts for blacks to gain admission to Ole Miss and appropriated 60% of the funds from the Morrill Land Grant to establish the first black land-grant college in the nation, Alcorn University.* Hiram Rhodes Revels, the nation's first black US Congressman, resigned his seat in the US Senate to become the black college's first leader.¹⁷ Interestingly, the legislature also passed a bill that authorized the law school to be moved to Jackson and to offer a legal program jointly with the newly established black college. However, there was no funding available for the venture, and neither school was interested in sharing educational spaces. So, the venture failed.

By 1874, the law department enrollment was nineteen, but the BOT was faced with difficulty in finding faculty members. They had been able to use part-time lecturers

* In 1878, the legislature changed the name of the school to Alcorn Agricultural & Mechanical College. It would be changed again in 1974 to Alcorn State University.

to fill the void left by Lamar for four years, but by 1874, left with no alternative, operation of the law program ceased for a period of three years.¹⁸ Then, in 1877, John Marshall Stone, a Democrat, was elected to the governor's office, effectively ending Reconstruction in Mississippi. The composition of the Board of Trustees of the University of Mississippi was changed so that the board consisted of fifteen members, five of whom had to be graduates of the university. Board members would be appointed by the governor to serve six-year staggered appointments, and the governor would serve as ex-officio chairman of the board. The law school had already been tethered to the political space of the state, but the board change would serve to insert politics directly into the functioning of Ole Miss and thus the place of the law school itself.¹⁹

From Legal Program to Law School

The newly established board appointed Edward Mayes, a native of Hinds County, to serve as the new law professor. Mayes, an 1870 graduate of the law program, practiced law in Coffeeville and then in Oxford before his appointment to the law program. Six legal professionals of the Oxford area delivered lectures to the law student body, including Chief Justice Horatio F. Simrall, Associate Justice Hamilton H. Chalmers, US District Judge Robert A. Hill, the Honorable Jehu A. Orr, the Honorable Hugh A. Barr, and the Honorable Harvey W. Walter. Mayes initially kept the originally established one-year curriculum, but in 1881, the BOT approved an extension of the curriculum to two years.²⁰

Professor Mayes was regarded highly by the students and faculty of the university. In 1886, the BOT abolished the Office of Chancellor and ordered the faculty to elect a chairman. The faculty unanimously voted Mayes to the position. As chairman,

Mayes was instrumental in preventing a successful campaign by state senator J.Z. George to redirect university appropriations to Mississippi A&M College (now Mississippi State University). He directed a university-wide curriculum redesign and traveled the state recruiting for the university. Mayes also kept a watchful eye on the faculty and recommended to the BOT the dismissal of five of the university's eight professors who he believed were not performing their duties. Impressed by Mayes, in 1889, the university BOT dismissed the professors, restored the chancellor's office, and appointed Mayes to fill the space. Under the leadership of Mayes, Ventress Hall, the university's first law building was constructed. Mayes' years of serving the university in a dual capacity exhausted him, and he left the university in 1891 to practice law in Jackson.²¹

To replace Mayes in the law school, the BOT appointed one of their own members, Albert Hall Whitfield. Whitfield's tenure in the law school lasted only until 1894, when he was appointed to the Mississippi State Supreme Court. While his time on campus was brief, Whitfield was instrumental in negotiating an agreement on behalf of the BOT with the Illinois Central Railroad to expand the campus by procuring land from the railroad company, thus expanding the physical space of the university.

Whitfield was succeeded by Garvin D. Shands. Dean Shands, a former lieutenant governor of the state, strongly opposed Mississippi's Populist governor, James K. Vardaman. Both Dean Shands and law professor Thomas Somerville campaigned in favor of the formation of a new bar in the state, believing in an urgency of the need due to the instability of the political place of the state. In January 1906, members of the state

legislature passed a motion to form a new bar, the Mississippi State Bar Association, and Shands was elected as the new bar association's first president.²²

Shortly after, a recent graduate of the law school, Duncan H. Chamberlain, published a pamphlet, "The Facts about the Troubles of the University of Mississippi: The Jim Crow Laws against Whites at the University." In the pamphlet, Chamberlain accused the administration of Ole Miss of treating members of the university's Greek system differently from the non-Greek members. Chamberlain reasoned that the special treatment received by fraternity members reinforced the elitist space of the institution.²³

Due to this, Chancellor Fulton requested separate investigations be made by both houses of the state legislature. Then, the university's governing board met to discuss the accusations and to determine if a course of action would be necessary.²⁴ Largely, no wrongdoing was attributed to Chancellor Fulton, but Governor Vardaman had become determined to dismantle the leadership of Ole Miss. At the time, Vardaman was openly opposing the chancellor's brother-in-law in the race for the US Senate. So, in an attempt to avoid the accusation of factional politics, Vardaman appointed three new members to the university's governing board, all of who also strongly opposed Chancellor Fulton. In addition, one new BOT member, Judge Robert Powell, also wanted to see Dean Shands removed from his position because Powell's son had previously been suspended by the faculty for violating fraternity rules, and Powell blamed the dean.²⁵

By the time of the June 1906 BOT meeting, Fulton had been told by his supporters on the board that there was no longer enough support within the board to keep him in office. Thus, he resigned the chancellorship.²⁶ The board offered him a position as the chair of Astronomy, but Fulton declined and left Oxford. During the

same meeting, Dean Shand's annual salary was lowered by four hundred dollars.²⁷

Finding the salary sanction unacceptable, Shands tendered his resignation and took a position at Tulane University Law School in New Orleans.

After Shands left Ole Miss, the law school witnessed a rapid turnover in the decanal appointment. Thomas Somerville temporarily moved into the deanship until the BOT found a permanent replacement, Clarence L. Sivley. Sivley accepted the position only to resign a few months later to pursue a prestigious career in the private sector. Sivley's replacement, Elmore Holmes, remained in the dean's office until 1910 until he too left the university to pursue a legal career in Memphis.²⁸

The Fulton fiasco convinced many members of the state legislature that education and politics in the states institutions of higher learning had become too intermingled and had threatened the ability of the educational missions of the state's colleges and universities to be carried out in the educational space of the state. This, coupled with the opinion that there was too much duplication of cost and effort in the public institutions of Mississippi, led the state legislature in 1910 to abolish the governing boards of the University of Mississippi, Alcorn A&M, Mississippi A&M, and the Industrial Institute and College (now known as the Mississippi University for Women) and to form a centralized governing board for the four institutions.* The new consolidated board was comprised of businessmen and initially referred to as the *Central Board*. The non-political board, however, lasted only two years. During the 1912

* The state's normal school, Mississippi Normal School, now the University of Southern Mississippi in Hattiesburg, remained governed by its own independent board until 1932. Sansing, *Making Haste*, 82.

legislative session, the governor was reinstated as an *ex officio* president of the Central Board, thus also reinstating political presence in the governing board of Mississippi's institutions of higher learning.²⁹

Leonard J. Farley was then appointed to the deanship of the law school. Farley had attended Ole Miss as an undergraduate on one of the scholarships established at Ole Miss, the LeBauve scholarship, which provided scholarships for orphans from DeSoto County. Farley taught secondary school while studying law as an apprentice under Judge Sam Powell. He was admitted to the state bar in 1890 and served as the superintendent of education of DeSoto County and had also served in the state senate.

Farley began his duties in the fall of 1910. When he moved into the post, the law program's enrollment had been steadily increasing with every year. However, World War I would quickly reverse the enrollment trend in the university and in the law program itself, both in the number of students and faculty. By the 1917-18 academic year, Dean Farley was the law school's sole faculty member. In the 1919 commencement, two LLBs were awarded, and only a few BAs were awarded, one to Robert J. Farley, Dean Farley's son.³⁰ Despite a seemingly dismal atmosphere on campus, during the war, women across the country had begun to move into legal practice, and female students kept the enrollment at Ole Miss Law from perishing. In 1915, the law school graduated its first co-ed, Bessie Young from Grenada. The next year, Linda Reaves Brown of Meridian graduated from Ole Miss Law with honors distinction.³¹

By the fall of 1920, enrollment in the law school began to rebound, and Dean Emeritus Somerville's cousin, Lucy, was one of four female students in the law

program.* Also, Dean Farley chose a female student, Isabel Peebles from Philadelphia as the law school's "Student Assistant," making her the first female on the payroll of the law school. Shortly after the 1921 commencement, however, Dean Farley passed away.³² Professor T.C. Kimbrough succeeded Farley and went on to serve as the law dean for nearly twenty-five years. During Kimbrough's tenure, the law program was elevated to its own unit within the university and became known as Ole Miss School of Law. During the Kimbrough years, the law program expanded from a two-year program to a three-year program, and Kimbrough also expanded the size and holdings of the law library and the faculty.

In 1922, the Association of American Law Schools (AALS) granted conditional accreditation to the law school with requirements that the program provide additional course offerings and relocate to new facilities.³³ In 1925, the State Bar passed a resolution requesting that the legislature allocate appropriations so that the law school could make the improvements required by the AALS.³⁴ However, the 1926 legislature failed to do so. In November of that year, an AALS inspector found that several deficiencies persisted in the law school. Among them, the law library did not contain the minimum required volumes for accreditation and was also underfunded. The number of

* Upon graduation, Lucy would become the third woman ever admitted to the state bar. Her mother, Nellie Nugent Somerville became the first female member of the Mississippi legislature in 1925. Lucy would be elected to the Mississippi House of Representatives in 1932. Michael De L. Landon, *The University of Mississippi School of Law: A Sesquicentennial History* (Oxford: University of Mississippi School of Law, 2006), Kindle edition, chap. 3.

faculty members also fell short of accreditation standards. So, the next month at its annual convention, the AALS placed Ole Miss law on probation. A year later, the law school still had not managed to deal with the deficiencies, and accreditation officially was revoked by the AALS.

Higher Education in Mississippi is Invaded by Politics

In 1928, Governor Theodore G. Bilbo, in his inaugural address, announced plans to move UM to Jackson. His announcement, along with the announcement of other costly endeavors proved to be very controversial, especially with the low-pressure faction of the state's Democrats. In addition to plans to move the university, Bilbo laid out a plan for the reorganization of the state's educational administration in order to unify the system. This plan included the formation of an eight-member board of education that would appoint a state superintendent of education as well as a commissioner of higher education. Members of the new state Board of Trustees (State Board) would serve eight-year, staggered terms. Governor Bilbo reasoned that this would prevent a majority of any board having been appointed by any one governor.³⁵

The proposal to move the university to Jackson quickly was killed by conservatives in the House of Representatives. Bilbo did not attempt to change the minds of anyone in the legislature. Instead, he accepted the rejection and then turned his focus on funding physical and academic improvements for Ole Miss, as the university (not only the law school) had been heavily criticized by accreditation agencies for several years before Bilbo took office. In addition to the revocation of accreditation of the law program in 1927, the Association of American Medical Schools (AAMS) placed the medical school on probation for two years. In 1929, the Southern Association for

Colleges and Schools (SACS) reported severe deficiencies in faculty salaries and in faculty qualifications, noting that a large number of university faculty held degrees from Ole Miss.³⁶

Bilbo recommended a \$5 million special appropriation to improve the physical spaces of the university. The following April, Governor Bilbo signed a bill granting \$1.6 million to the university, including \$150,000 appropriations to build a new law building. Also that year, the state bar association voted to publish the *Mississippi Law Review* jointly with Ole Miss Law.³⁷ Ole Miss Law was a place on the path of growth and prosperity, but the trajectory would be thrown off course.

By early 1929, the nation was on the brink of economic disaster, and building improvements for the law school were delayed.^{*} In addition to financial troubles, Dean Kimbrough faced political difficulties as well. Robert J. (Bob) Farley, who by this point had joined the law faculty as an Assistant Professor, had campaigned against Theodore Bilbo during the 1927 gubernatorial campaign. Once in office, Governor Bilbo ordered Chancellor Hume to reprimand Farley, but Hume declined reasoning that Farley's political activities were not his business.[†] Hume also opposed the Governor and several

^{*} Delays due to the Great Depression would prevent the opening of the law library in addition to other campus improvements.

[†] The incident had taken place a few years earlier, but it took Bilbo some time to hand down his reprimands. Bilbo was responsible for the dismissals of thirty-one professors in the state. Because of this, SACS had almost every university in the state under suspension. In a late interview with Tom Brady, he claimed that while he had a good relationship with Bilbo that he never asked the governor for a favor—but one time

board members in 1929 when he suspended two student editors of the university's yearbook for including "indecent and indelicate references to university women."³⁸ Though he reinstated the students the following spring, the damage was done. Governor Barnett made recommendations to the new Board to remove Hume of his duties. The new Board then dismissed Hume and voted Joseph Neeley Powers into the Chancellorship for a second time. The board also demoted Dean Kimbrough to professor and named Judge Stone Deavours of Laurel as the new law school dean.

Farley and his colleague, Professor Hemingway, were fired because they had campaigned against Bilbo during his gubernatorial campaign. Though unaffected professionally by the political interference in the university and the law school, law Professor Roberds was unaccepting of the attack upon academic freedom, an ideal he held dear. He refused to remain at Ole Miss and resigned.³⁹ Professors Hemingway and

when he asked the Governor to keep Chancellor Hume. According to Brady, the Governor responded, "Are you familiar at all with the Bible? . . . Then, you recall the expression, the verse, 'those who live by the sword shall perish by the sword'? . . . Thus it will be with Dr. Hume and Bob Farley." Brady responded to Bilbo, "Well Governor, we're going to part company; we're going to part company when you start to make our universities—institutions of higher learning, subordinate to the political organization. . . . there's such a thing as academic freedom. . . . You can't have any education of any kind without academic freedom. The right to tell the truth, regardless." Brady, like Bilbo, was a staunch segregationist. Despite his racial ideals or political posture, the judge appealed to academic freedom, something that Bilbo was unable to do. See Thomas Pickens Brady, interview by Orley B. Caudill, May 17, 1972.

Roberds were replaced by Rickard Franklin Payne and Joseph J. Smith, who had earned their LLB degrees at Yale and Harvard, respectively. J.W.T. Falkner, Jr., uncle of William Faulkner,^{*} replaced Farley.

That fall, the law school was investigated by the AALS because of the firings at the university that had taken place under the Bilbo administration. The investigating committee found the political intrusion into the space of Ole Miss Law to be unacceptable. According to the AALS, Ole Miss had “been and is so subjected to and affected by political influences and arbitrary actions by persons in authority over [it] as to render impossible the maintenance in its Law School of the sound educational policy contemplated by membership in the Association.”⁴⁰ Then, during the December 1930 annual meeting of the AALS, despite the pleas of Dean Deavours and Professor Payne, Ole Miss Law was expelled from membership in the AALS.

The next year, the relational space between education and politics in Mississippi took center stage during the gubernatorial election of 1931 with every candidate pledging the separation of school and state. The most convincing pledge came from Martin S. Conner, a strong opponent of Bilbo. Conner took office in January 1932, along with a new state legislature.⁴¹ The legislature passed Senate Bill 59, which abolished the composition of the centralized board and established a Board of Trustees (Board), which included the governor to serve as chair and ten non-reappointable members who would serve staggered terms. The bill also authorized the Board to appoint an executive secretary and to hire whatever clerical staff was needed. In order to maintain distance

^{*} After Faulkner began to publish, he spelled his name differently from his given surname, Falkner.

between the governing board of the state's institutions of higher learning and the political place of the state, Senate Bill 59 reserved sole authority for nominations of faculty appointments for the heads of institutions and prohibited lobbying the legislature in favor of any institution. The same spring, the legislature passed a law that required practicing attorneys in the state to be admitted and pay dues to the Mississippi State Bar, which until that point had been an organization of voluntary membership only.⁴²

The Board immediately went to work to restore accreditation through SACS. One condition of reinstatement of all of the state's institutions was the administrators and faculty who had been fired during the Bilbo purge be reinstated. At Ole Miss, Hume and the other professor and staff members who had been fired were restored to their positions. In the law school, T.C. Kimbrough was made dean once again, and Professors Hemingway and Farley also returned. Joining the faculty that year was John Fox, a graduate of Jackson School of Law.^{*} In addition to SACS restoring accreditation for the university, by the end of the year, the AALS once again acknowledged Ole Miss Law Schools as a member.⁴³ The successes of the newly established Board, however, were short-lived. In addition to reorganizing the board composition in 1932, the legislature had required the board to consolidate the institutions of higher learning in Mississippi and to eliminate duplication of programs, a feat the Board was unable to accomplish.⁴⁴

As the effects of the Great Depression began to subside, the place that was Ole Miss Law was evolving. Enrollments in the law school began to steadily increase, and

^{*} Jackson School of Law was a small, private, and unaccredited law school and was acquired by Mississippi College in 1975 and is now Mississippi College School of Law.

additional staff members were added in the dean's office and in the law library. Facilities for the law school also continued to expand. By 1933, the law library contained over 12,000 volumes. The law faculty also continued to expand and diversify, signaling an evolution of ideology regarding women assuming teaching roles in the law school, though women would not enter the professoriate in the law school for many years to come. In 1937, Helen Maltby Lumpkin, who had previously been the secretary to the dean as well as the law librarian was added to the faculty as an instructor. She taught the Legal Bibliography Lab course to first year law students. The next year, Rhoda Catherine Bass, former law school registrar and secretary to the dean was also added to the faculty as an instructor. In addition to teaching the lab course to first year students, Bass taught a course in damages to the law school's second and third year students.⁴⁵

In 1935, Alfred Benjamin Butts became the eleventh Chancellor of the University of Mississippi. In addition to holding a PhD in political science from Columbia University, Butts held a law degree from Yale University. As chancellor, Butts was an ex officio member of the law faculty, but he was dedicated to the law school by more than title alone. Butts actively taught in the law school and often left during the summers to accept visiting law professorships at other universities, including at his alma mater, Yale.⁴⁶ Alfred Butts championed the principles of academic freedom, and when he arrived on campus, he pledged to the faculty that "no professor would ever be appointed or dismissed for political reasons."⁴⁷

Shortly after Hugh L. White took office as Mississippi's 45th governor in 1936, House Bill 242 was introduced.⁴⁸ The bill called, once again, for a change in the

composition of the Board of Trustees that would add three new members to be appointed by the governor. The three appointees were to serve four years, and at the expiration of those terms, the composition of the board would revert, back again, to ten members. This would allow Governor White to appoint seven new members to the Board who would serve throughout his term in office.

White did support a change in the board but not necessarily an expansion of the body. Instead of adding members of the Board who would sway the Board vote in his favor, he merely wanted the five members of the Board who had opposed his election to resign. This did not happen. House Bill 242 was heavily debated in both houses of the legislature before its confirmation. Despite being empowered to use his appointees to his favor, White stayed out of the place of the Board, and the governing body saw no major political intrusion from the governor's office during White's term.⁴⁹

Governor White's successor, Paul B. Johnson, Sr., however, oversaw politically charged changes to the Board during two different legislative sessions. During the first, the Board was expanded to include fifteen members, nine who would be appointed by the governor. Shortly after the new body was formed, the Board fired several administrators and faculty members at Mississippi State Teachers College in Hattiesburg.^{*} This caused the college to be placed on probation by SACS, which also threatened to revoke accreditation from all of the state's institutions.⁵⁰

In response to this, the legislature created a constitutional amendment that established a thirteen-member board of trustees. Twelve of the trustees were appointed

^{*} The name of Mississippi Normal College was changed in 1924. It would be changed again in 1940 to Mississippi Southern College.

by the governor from each of the seven congressional districts and each of the three Supreme Court districts. Two members-at-large also were appointed. The thirteenth member, known as the LaBauve Trustee of DeSoto County, was to vote on only matters that pertained to the University of Mississippi. Mississippians signed a breath of relief because the newly formed constitutional board was put in place to put an end, once and for all, to political interference in the state's institutions of higher learning. For some time, this was the case, as institutions across the entire United States would come to deal with an explosion in post-war enrollment. Mississippi was no exception, and the first members of the newly established constitutional board would expend their efforts in accommodating returning soldiers, both white and black.⁵¹

Thus, by the end of the governorship of Paul Johnson, Sr. in 1943, the institutions of higher learning in the state had rapidly grown in enrollment, but the educational places themselves remained segregated. Political intrusion into the space of education was past, and the dominant racial ideology of the state had not been challenged by the minority opinion. Thus, the political identities of the state's residents remained intact and dichotomized by color—white or black.

CHAPTER IV

A GENTLEMAN AND A DANGEROUS MAN

“I refuse to tailor my teaching to satisfy any cult of crackpots, fanatics and willful ignoramuses.”

William Patrick Murphy

New Leadership and Prosperity at Ole Miss

Bob Farley, like his father, began his career in education. He earned his undergraduate degree from Ole Miss before serving as principal of the high school in Canton during the 1919-20 school year and as then as principal of the high school in Natchez the following academic year. After his year in Natchez, Farley left to return to Ole Miss in order to earn a law degree, during his father's (Leonard Farley) deanship. In 1923, his final year of law school, Farley was elected mayor of Oxford. When he graduated, Farley entered into private practice in partnership with Dean Emeritus Thomas Somerville, and two years later, Bob Farley began teaching for the law school on a part-time basis.¹

After Farley was fired from his teaching position at Ole Miss under the Bilbo administration, he attended Yale University to earn an advanced law degree. By the time he completed his studies in 1932, the AALS had readmitted the law school to membership, and administrative order in the law school had been restored by the reappointment of Dean Kimborough. Farley had been offered a position at the law school of the University of Wyoming, where his brother was dean. His sights were not set upon returning to Mississippi, but fresh from his legal studies, Farley did not have the financial resources to move to Wyoming. He did, however, have enough money to get back to Oxford. So, he

returned to Ole Miss as a full-time professor. Bob Farley taught at Ole Miss Law for two years and then left to teach at Tulane University, where he was offered substantial increase in salary from \$2500 to \$3500 per year.²

In January 1946, Chancellor Butts asked Bob Farley to return to Ole Miss Law to replace Dean Kimbrough, who passed away on the last day of 1945. Farley accepted the position (and a pay cut) and returned to Oxford. At the end of the year, however, the Board of Trustees decided that the university needed a change and removed Chancellor Butts from his post.³ Many believed Farley would be the candidate who would replace Butts, but the Board instead decided to appoint someone with no intrastate political connections. They chose John Davis (J.D.) Williams, a native of Kentucky, who held a DEd* degree from Columbia University and had been the president of Marshall College in Huntington, West Virginia since 1942.⁴

J.D. Williams arrived in Oxford in 1946. The Board of Trustees chose him because he had extensive administrative experience in a university. Privately, Williams did not identify himself as a segregationist, but publically, he portrayed himself to the Board to be in support of the laws of Mississippi. This gave the Board the impression that Williams was, in fact, a segregationist. Yet, after only a couple of years in the state, Williams became concerned with race relations. Despite this, he maintained a public appearance that he endorsed segregation, though he never spoke strongly in favor of it. While timid,

* The Doctor of Education (DEd) is currently more commonly designated as EdD. See Douglas J. Toma, "Legitimacy, Differentiation, and the Promise of the Ed.D. in Higher Education," Annual Meeting of the Association for the Study of Higher Education: Education Resource Information Center (ERIC) (November 2002), 11–12.

Williams' position toward segregation differed markedly from his counterparts at the state's other white colleges, Benjamin Franklin Hilbun (Mississippi State College) and William D. McCain (Mississippi Southern College), who were both outspoken segregationists. Williams mostly stayed out of racial discussions and chose instead to focus on what he viewed to be dragging the university into the 20th century. Under his administration, the university saw an expansive revitalization of physical facilities as well as an expansion in its academic and research missions.⁵

In the late 1940s and 1950s, Williams dealt with minor revolts regarding race and civil rights. These events remained mostly confined to campus, but in 1948, a dispute disrupted that spilled over into the state's media outlets. The dispute was over a professor of criminology, Alfred C. Schnur, whose research interests involved the treatment and rights of prisoners. Schnur was outspoken about the brutal treatment of inmates at the state correctional facility at Parchman in Sunflower County. Law school dean Bob Farley publically defended Schnur at an alumni meeting that was held in Meridian. At the same meeting, Board of Trustees member Dr. H.M. Ivy endorsed Farley's comments.⁶

Members of the Mississippi House of Representatives Penitentiary Committee vocally attacked Schnur and demanded that Chancellor Williams reprimand the professor. They also demanded that Williams give Schnur the choice either to keep his comments within the confines of the classroom or to resign. It was subtly suggested that the university's funding would be cut otherwise, but Williams stood strongly against interference in university operations by the political regime and defended the professor, arguing that Schnur's professional expertise of the subject afforded him the right to approach the subject within the boundaries of academic freedom. The controversy strained

the relational space between the university and the government; thus, Chancellor Williams vowed to repair the damage.⁷

During this time, as the Board of Trustees and the universities of Mississippi were grappling with anti-integration issues on their campuses, and they were also attempting to identify the role and scope of the state's universities. During the same time of the Clyde Kennard scandal at Mississippi Southern University, Ole Miss Chancellor Williams tried to convince the Board to consolidate the state's universities. He was too late, however, as Mississippi State College had been granted university status, and Mississippi Southern, Delta State Teachers College, Jackson College for Negro Teachers would all soon follow with elevations in status and expanded missions.⁸

Race Takes Place

Other than the Schnur incident, Farley spent the early years of his decanal appointment growing the law program, and those early years saw much prosperity. During his first year as dean, the law school experienced high post-war enrollments of students with 247 students enrolled for the 1946-47 academic year, an all time high for the law school. Two years later, it would peak once again with 336 students. The law faculty also increased each year by one or two professors. The physical space of the law school quickly became insufficient to contain the rapidly growing law school. So, Dean Farley began making plans to accommodate the growth by the expansion of Lamar Hall (now named Farley Hall, after the dean). Further contributing to the evolution of the law school, the faculty began to plan for the introduction of a graduate degree program in the law school.⁹

These gainful years at Ole Miss Law were soon met by trouble. Farley had approached the Board about calmly and quietly identifying a few promising black students to select for admission into the law school. This was not due to a strong desire of Farley to integrate the law school but was meant to avoid the expense of anticipated court costs if the law school refused to integrate. The dean also realized that the state could not afford to establish and maintain a separate black law school in an effort to remain legally segregated. He viewed integration of the place of law school to be inevitable and was motivated by the desire to make integration of the space of the law school a controlled event.¹⁰

In 1953, Charles Dubra, a black minister from Gulfport, sought admission to the Ole Miss Law School. Dubra had earned an undergraduate degree from Claflin College in Orangeburg, South Carolina and a Master's degree from Boston University. Because of a Board policy enacted in 1950^{*} empowering administrators to make decisions regarding the

^{*} The Board had been forewarned by Chancellor Butts in 1939 that blacks had been seeking admission to other states' schools and that blacks in Mississippi were likely to follow suit. Chairman Calvin Wells responded with confidence that blacks had too much sense to try to gain admission to the colleges in Mississippi. However, the chairman proved to be naive in his thoughts, as immediately following World War II, black veterans began to seek admission to colleges throughout the South. The Board responded to the situation in 1950 by enacting a policy that ordered the heads of Mississippi's institutions to "accept or reject any application; if in his judgment, such acceptance or rejection is for the best interest of the institution." "Minutes of the Meeting of the Board of Trustees," PLF Files, Box UA 135 M-1, Folder Board of Trustees Survey of Higher Education (1954), August 15, 1950.

admission of blacks, Farley decided to approve Dubra's application for admission. Because of Dubra's credentials, Farley believed that Charles Dubra was the right candidate to break the color barrier in the law school.¹¹

Dubra had also contacted Farley to express that he did not wish to receive any attention in connection with admission to the law school and would live off campus in the local black community, thus providing the exact atmosphere Farley believed to be necessary to slowly change the racial identity of the law school.¹² Dubra was not interested in breaking barriers. His purpose was solely to earn a legal education—not to integrate the campus or change the identity of Ole Miss. So, Farley recommended to Chancellor Williams that Charles Dubra be admitted to the law school. Williams asked Farley to attend the next meeting of the Board of Trustees in order to provide a full report of the situation directly to Board members. Farley then traveled to Jackson, accompanied by Chancellor Williams, in order to make a case in favor of Dubra's admission to the law school.*

Unfortunately for Dubra, Farley's efforts to have him admitted to the law school were futile. The minutes of the Board meeting do not list Dubra's application as an item of discussion, however, according to Farley, H.M. Ivy was the only Board member who was favorable toward the admission of Dubra, but Ivy was outvoted by the remainder of the Board. In fact, according to Farley, one Board member, R.D. Morrow "got almost violent over the idea" of the integration of Ole Miss.¹³ Ivy stood alone in his space of acceptance.

* According to Josh Morse, III, members of the Citizens' Council also were in Jackson to hold a meeting in conjunction with Farley's meeting with the Board that day. See Joshua Morse, interview by Kate Medley, September 29, 2007.

The other board members knew they would need to back their beliefs with an academic justification. The rationale chosen by the Board to reject Dubra's application was because his undergraduate degree was obtained from an institution that was not accredited. It is reasonable that Dubra could have challenged the decision, especially since his graduate work at Boston University made him eligible for admission to the law school, but instead, he sought no legal redress. For the time being, the law school would maintain its identity as a legal program for whites, mostly for white Mississippians.

Undeterred by Farley's failure in securing admission for Dubra, optimism abounded in the law school due to the continued growth of the program. The law school had reached its centennial year, and there was much to celebrate. The plans for the extension and renovation of Lamar Hall were complete.¹⁴ The law library would soon undergo a massive expansion made possible due to grants secured by Dean Farley,¹⁵ and though post-war enrollments had stabilized, by the centennial year of the law school, 104 first and second year students were enrolled, including eight women. Among the female law students was William Faulkner's sister-in-law, Dorothy Z. Oldham. Also that year, Dean Farley was elected to serve as the president of the State Bar, and law student Joshua Morse III was elected to serve as the president of the junior section of the bar.¹⁶

The law school began celebrating its centennial year in the spring by featuring US Supreme Court Justice Felix Frankfurter as the keynote speaker at a banquet hosted on campus in conjunction with the annual conference of the Southern Law Review.¹⁷ It was the first time that a Supreme Court justice accepted an invitation to speak to the law review, and tickets for the event sold out very quickly.¹⁸ Of course, the justice did not discuss the impending *Brown* decision, but it was the next month that the court delivered

its decision. Justice Frankfurter's visit to campus would not be forgotten and would come to later haunt the law school.

Shortly thereafter, Medgar Evers, applied for admission to Ole Miss Law. Evers, then working for NAACP in Bolivar County, earned his undergraduate degree from Alcorn A&M College. Initially, the Board rejected Evers' application because he failed to include two letters of recommendation from alumni, which was an admissions requirement for all public institutions in Mississippi at the time. So, Evers obtained and submitted the required letters of recommendation from two Ole Miss alumni from his home county of Newton.¹⁹

Realizing the barrier to integration they had put into place had failed, the Board then reinterpreted the requirement to mean that the applicant had to submit recommendations from residents of the county in which the applicant resided at the time of making application for admission. Before Evers had time to identify two alumni who would vouch for him, the Board voted to increase the number of recommendations from two, to five. Around the same time, Evers had been offered a position with the NAACP state field office. Instead of continuing to pursue admission to Ole Miss Law, Evers accepted the job, and again, the all-white identity of Ole Miss Law would continue to remain intact.²⁰

Though Farley believed integration was on the horizon, shortly after the *Brown* decision, he had predicted that an effort to close public schools might be attempted in an effort to block integration.²¹ Then, in September 1954, his prediction came to fruition. Both houses of the Mississippi legislature passed a bill that called for all public agencies and officials to prohibit integration by any lawful and peaceful means necessary.²² The

School Abolition Amendment, as it became called, was ratified by voters in December by more than a two-to-one majority by county, but before the law could go into effect, the deliberate speed ruling of *Brown II* was read by the US Supreme Court.

Though there was much uncertainty as to how the institutions of the state would proceed in accommodating the ruling of the high court, the question of integration had been answered. This would present great challenges for both the Board of Trustees as well as for university presidents. Blacks viewed the university, particularly historically white universities, as the vehicle of upward mobility in society, as the place whereby to enter an elevated social space. Throughout the South, historically white institutions of higher learning would soon face the challenges posed by integration. In Mississippi, neither the Board nor the institutions were prepared to deal with the maelstrom that would ensue by being caught between the segregationist heritage of the state and the dreams of black college hopefuls to earn degrees from integrated universities.²³ As Ole Miss Law was the only public law school in the state, the white space of the law school would be challenged. At first, the forces exerted upon the space would be small, but eventually, they the aggregate result would cause Ole Miss Law to change. It would integrate. It would evolve.

A Soldier Becomes a Scholar Becomes a Soldier

William (Bill) Patrick Murphy attended Southwestern College (known today as Rhodes College) on a scholarship and worked on campus, paid by a National Youth Administration grant to maintain the school's chapel.²⁴ He completed a degree in political science in 1941, and the original intention of Bill Murphy was to earn a PhD in political science and to become a professor. However, by the time Murphy was a senior, President Roosevelt had signed the Selective Training and Service Act of 1940. The US had not

entered into World War II at the time of the act, but in anticipation of military service, Murphy did not apply to graduate school.²⁵

By the time he graduated from Southwestern College, the Army had drafted Murphy. Wanting to avoid the Army, he had already applied to and was accepted by the V7 Midshipman Training Program, a naval outfit for college graduates. While in the Navy, Murphy spent much of his spare time with a group of men all of whom were attorneys. During that time, he listened to their discussions of the law and its practice, and his personal interests evolved. Murphy became passionate about the subject.²⁶ So too, his identity began to evolve. After he left the Navy at the end of 1945, Murphy utilized the benefits made available by the GI Bill and attended law school at the University of Virginia.²⁷

After graduation, Bill Murphy went to work for the US Department of Labor, and after several years of service, he applied and was accepted for admission into Yale Law School and was awarded a Sterling Fellowship.²⁸ Before leaving for New Haven, Murphy and his wife visited her family in Houston, Mississippi. While in the state, Murphy decided to drive to Oxford in order to introduce himself to Bob Farley. Farley called Murphy before he left Mississippi and urged him to postpone his graduate work at Yale because the dean was in desperate need of a professor in the growing law school at Ole Miss. Murphy agreed, and in return, Farley convinced the graduate coordinator for Yale Law to delay Murphy's fellowship for one year. The coordinator, Myres McDougal, was a graduate of Ole Miss Law and had known Farley for many years. McDougal happily granted his old friend the favor.²⁹

Murphy began teaching at Ole Miss in the fall semester of 1953, replacing Walter Dunham as the school's constitutional law expert. He inherited his course load from his predecessor, which included, constitutional law, labor law, administrative law, and personal property.^{*} His year at Ole Miss Law was quiet and uneventful, and then he left to complete his year of graduate study at Yale.³⁰

Murphy found Yale to be a “mind opening experience,”³¹ not only due to the rigor and fast pace of Yale Law but due especially to a team-taught course under the instruction of law professor Myres McDougal and political science professor Harold Laswell. The course, titled “Law, Science, and Policy,” described law as a process, rather than an argument, which at the time, was a novel approach to laws and also to the practice of law.[†] The approach for Murphy would forever change the way he viewed and interpreted the law and would come to influence the way in which he interpreted the *Brown* decision.³² His experience in the Navy had already changed his identity by causing him to want to become a lawyer instead of a political scientist, and his time at Yale contributed to further

^{*} According to Murphy, personal property is no longer taught in law schools.

William Patrick Murphy, interview by Sean Deveraux, January 17, 1978 (Interview).

[†] In the first half of the twentieth century, legal scholars at Yale began to deviate from the long-standing tradition of applying the Socratic method to the law that had originated in the United States at Harvard Law in favor of treating the law as a sociological process. Thus, by the time Murphy attended Yale, a realist approach to the law had been adopted throughout its curriculum. See Laura Kalman, *Yale Law School and the Sixties: Reverberations* (Chapel Hill: The University of North Carolina Press, 2005).

evolution of the man, as his newly found approach to the law would lead to an evolution of his approach to race.

While at Yale, Bill Murphy first chose to write his dissertation about the life and career of Supreme Court Justice Robert H. Jackson, but Jackson passed away during Murphy's first semester on campus. This, of course, led to multiple rapid publications about the justice, rendering the endeavor useless for Murphy's dissertation. So, he instead chose to compare the US Constitution to the Articles of Confederation and to analyze the transition in the United States from a government based on state sovereignty to one based on national supremacy.

Murphy's First Mistake

Murphy completed his studies at Yale and returned to Ole Miss in 1955. He continued to write his dissertation, which he completed in 1960, and he published his work as a serial publication in the *Mississippi Law Journal (Journal)* between March 1958 and May 1962. Upon his return, Murphy was met with a promotion from associate professor to full professor, which Farley had orchestrated on Murphy's behalf while he was at Yale. Also while Murphy was away, Farley had instituted a moot court program for students, and the dean gave Murphy the honor of becoming the faculty advisor to the program.³³

Murphy was completing his studies at Yale when the Supreme Court delivered the landmark decision in the *Brown* case. He anticipated that desegregation in the South would be a painful process, and at the request of Dean Farley, Murphy drafted a proposal regarding how the State of Mississippi might "cope with the decision."³⁴ Farley, a member of LEAC, provided copies of the proposal to all of the committee's members.

Murphy also submitted his proposal for publication as a letter to the editor of the *Jackson Clarion Ledger* on June 30, 1954.³⁵

In his plan, Murphy stated that any decision made by states to abandon public education would be “catastrophic,”³⁶ but also identified a number of problems related to managing integration within the available educational spaces of the state. He wrote that the Supreme Court’s decision had created “for Southern states manifold problems of new school construction, school transportation, allocation of teachers and teaching space, health and sanitation.”³⁷ He went on to state that Congress should consider helping states to facilitate the process of desegregation but that desegregation would best be achieved by states individually determining courses of action, proper for the people. Also, Murphy anticipated that numerous desegregation cases were on the horizon and noted that Congress had the constitutional authority to “re-vest jurisdiction in the United States District Courts and the Supreme Court.”³⁸ Additionally, he suggested such to be an “appropriate and intelligent application of the states’ rights principle.”³⁹ Murphy believed his proposal to be sound but knew it would not satisfy radicals, on either side of the integration issue.⁴⁰

Bill Murphy also sent copies of his proposal to a number of US Senators from southern states, including: John C. Stennis, a junior senator at the time, representing Mississippi; Lyndon B. Johnson, the U.S. Senate Majority Whip (Texas); Albert Gore, Sr. (Tennessee); Burnet R Maybank, (South Carolina); Lister Hill (Alabama); Walter F. George, (Georgia); Russell Long (Louisiana); J. William Fulbright (Arkansas); Richard Russell, Jr. (Georgia); A. Willis Robertson (Virginia); Allen J. Ellender (Louisiana); John Sparkman (Alabama); and Olin D. Johnston (South Carolina). Along with a copy of the

proposal, the letters reiterated the major points of the proposal, which he had also made in his editorial to the *Jackson Clarion Ledger*.⁴¹

Each senator responded to Murphy thanking him for his proposal. However, some of the men thoughtfully considered Murphy's proposal, and likewise, responded in a thoughtful manner. Senator Stennis responded noting that Murphy's proposal had "a great deal of substance" and was "worthy of further study and consideration," and consider it, Stennis did. The next month, the senator wrote to Murphy once again, after having had additional time to ponder Murphy's plan, expressing that it was "the best memorandum or writing" regarding desegregation and was "as accurate, clear, and sound as can be." Despite the senator's positive sentiments toward Murphy's proposal, he "had to report that the chances for federal legislation of the sort...are very, very remote."⁴² He reasoned that regardless the public stance on desegregation, all members of the current administration would be "dead set against such," as would the northern wing of the Democratic Party. This was, according to Stennis, "all in the interest of political expediency within their own bailiwicks."⁴³ He also attributed congressional opposition to integration to the "steel case."^{*} Stennis believed that if the steel case had been decided differently, there would not be such strong opposition in Congress toward enacting desegregation laws.

Senator Sparkman acknowledged Murphy's proposal as one that demonstrated "clear thinking,"⁴⁴ though he admitted, as did Stennis, that it might fail to be useful for policymaking in Congress. Senators Russell, Hill, and Long shared similar dispositions.⁴⁵

^{*} Presumably, the senator was referring to *Gore v. US Steel Corporation*, which was decided in 1954.

Senator George did not suggest any disagreement with Murphy's proposal but did express that he strongly disagreed with the *Brown* decision itself.

While some of the senators received Murphy's correspondence favorably, other southerners did not. Murphy received many letters of disagreement from private citizens who had read his proposal in the newspaper. In one, characteristic of the sentiment in opposition to Murphy's views, "a true & faithful Ole Miss Rebel," called Murphy's plan for desegregation "a lot of 'pussy-footing' to the damn Yankee Republicans." The rebel also stated he was in agreement with Eastland's "to hell with the US Supreme Court"⁴⁶ attitude. Other dissenters, while in disagreement with Murphy, were less abrasive in tone. For example, a farmer from Friar's Point, in the northwestern corner of the state, suggested that acceptance of the *Brown* decision equated to agreement with integration and told Murphy that he might fit in a place where integration was accepted but not in Mississippi.⁴⁷ Quite simply, Mississippi was a place whose people were not ready to enter into an integrated space, and at the time, he did not believe they ever would be ready.

On July 15, 1954, the conservative media in the state responded to Murphy's plan. The conservative Mississippi newspaper the *Summit Sun*, edited by political activist Mary Cain, ran a copy of Murphy's letter to the *Jackson Clarion Ledger* alongside the title, "Something Rotten at Ole Miss." Cain's editorial that accompanied the reprint identified both Murphy and Bob Farley as integrationists and suggested summary dismissal of both. Cain also wrote that "Mississippians certainly need to feel concern when the Dean and his assistant suggest that this road to tyranny is the road for the South." The paper also published a letter from a Jackson resident, who wrote that the Fourteenth Amendment was

illegal, that “nine New Deal partisans had perverted the constitution,” and that Murphy and Farley were “racial amalgamationists.”⁴⁸

In 1955, after returning to Ole Miss from Yale, Murphy made what he later referred to as his “first mistake.”⁴⁹ After being shocked to hear about a speech that US Senator James Eastland had delivered in Mississippi, * Murphy wrote a letter to the editor of the *Memphis Commercial Appeal* that defended the authority of the US Supreme Court to interpret the Constitution. He intentionally did not send the letter to the Jackson papers because he believed they had already demonstrated a lack of reception of his views when he previously had sent them his integration plan. Though the opinion was not published in the *Jackson* market and there was no immediate backlash from the publication, Murphy believed this was his first action that placed him on the radar of the Citizen’s Council. He may have been on their radar, but no shots were fired at Murphy until several years later.

Bill Murphy may have avoided what had the potential to become a great battle simply because tensions in the racial space of the state were strong, and he was not the only headliner that year. During the fall of 1955, Will Campbell, the director of Religious Life at Ole Miss, extended an invitation to the Reverend Alvin Kershaw, an Episcopal

* Murphy was not clear as to what speech he was referencing; however, he likely meant the speech Eastland had given in Senatobia on August 12, 1955, where the senator declared, “the Constitution of the United States was destroyed because of the Supreme Court’s decision. You are not obliged to obey the decisions of any court which are plainly fraudulent sociological considerations.” Williams, *Eyes on the Prize*, 38.

Also, Murphy’s letter to the editor was published in the *Memphis Commercial Appeal* shortly after Eastland’s speech had run in newspapers around the state.

minister from Oxford, Ohio. Kershaw was to speak to students as a part of the university's annual Religious Emphasis Week. Kershaw had previously won money on the then popular television game show, the "\$64,000 Question" and had publically committed to donate a part of his winnings to the NAACP. The invitation to speak sparked great debate on campus and within the community. While Kershaw was to be on campus to speak about his religion, it was feared that the conversation would turn to race. So, under pressure from the Citizens' Council, the Board ordered Chancellor Williams to withdraw the invitation to Kershaw to speak on campus.⁵⁰ Because of this, all other religious leaders who had been invited to speak cancelled their own talks on campus, and local religious leaders also declined participation, including the campus Rabbi.⁵¹

After the Kershaw incident, the Chancellor called a meeting with the entire faculty to discuss the events. In reference to racial issues, the chancellor stated that Alvin Kershaw was "not the ditch to die in." Bill Murphy asked Williams what ditch he thought would be appropriate for the university. To which the Chancellor responded when "they"⁵² try to get a faculty member fired for exercising academic freedom, that he would be willing to die in that ditch. The faculty members frequently mocked the chancellor's words, as he would come to demonstrate that threats to the place of academic freedom in the university would go unchallenged by his office.

The Kershaw incident, like previous racial incidents on campus, died down. Then, the next year, the Mississippi legislature enacted a law that required every public school teacher to annually file a report with the state that disclosed all organizations to which he belonged or contributed to financially for the previous five years.⁵³ This type of legislation

had been enacted in many states in the nation, even outside of the South, as fears of Communism were at an all-time high in the country.

In the South, the Red Scare had become intimately linked to race, as southerners believed that due to slavery, blacks did not understand the concepts of democracy and capitalism. Southerners construed this belief to mean that blacks were anti-American and, thus, susceptible to subversion. Because of this, governments in the South were especially interested in state employees who supported organizations that advanced racial justice issues, such as the NAACP and also the ACLU.⁵⁴

Murphy's Second Mistake

In the spring of 1957, Murphy made what he later called his “second mistake.”⁵⁵ The *Mississippi Law Journal* published Murphy’s critical review of *Sovereign States* by James Jackson Kilpatrick, who at the time was the editor of *The Richmond News Leader* in Virginia.⁵⁶ Kilpatrick, a states’ rights proponent, had revived the doctrine of interposition, the archaic notion that states may enable their citizens to refuse to obey federal law by interposing themselves between the people and the federal government. Murphy’s review called interposition “nonsense,” and claimed that the concepts of interposition and state sovereignty to be “baseless causes.”⁵⁷

Further, Murphy claimed that Kilpatrick’s thesis was “untenable,” primarily because it was based in historical inaccuracy but also because the Articles of Confederation had failed to serve the people, a destruction in function which Murphy could not ignore. After presenting his position, Murphy closed with a witty note that praised Kilpatrick for his ability to persuade his reader but included a snide comment that, “it is an almost infallible rule that when a newspaperman expounds on a legal subject,

what he says is unreliable.”⁵⁸ This time, Murphy had gone too far. The paper caused a public response to be made by the Citizens’ Council. Council member Will Ward penned a scathing response to Murphy’s review, which also was published in the *Journal*.

The same spring, the first major outburst on a college campus in the state occurred. Surprisingly, major protests in Mississippi universities did not begin in the white schools, but at Alcorn. In March 1957, Alcorn students began to boycott the classes of history professor Clennon King because they were angered by his criticism of the NAACP. King also had a demeaning attitude toward his female students. King’s Students complained to the college’s president, J.R. Otis, but were unsatisfied with the lack of attention paid to their complaints. Because of this, a boycott spread throughout campus. Eventually, the Board of Trustees replaced Otis and terminated King’s contract. Under the leadership of Otis’ successor, J.S. Boyd, campus affairs returned to normal;⁵⁹ however, the events at Alcorn marked a turning point in the minority space of the state’s black college students. Dissatisfied with the fact that the black educational space in Mississippi reinforced the identities of black students as second-class citizens, their desires to be educated at white institutions would grow strong.

The next spring, Clennon King decided to seek admission to the Ole Miss to pursue a doctorate in history. King discussed his admission with members of the Board before he applied and, with good reason, believed the Board would find a technicality to prevent his admission. So, he then phoned Governor James P. Coleman of his intentions to make application for admission to the university in person and also notified the Mississippi Highway Patrol that he would arrive on campus on May 16. So not to attract attention, Governor Coleman traveled to the nearby town of Batesville to quietly

coordinate with the Highway Patrol a means to prevent violent outbursts on the campus. After King arrived at the university, he was led to a room and left alone. Alone and panicky, King began to scream loudly that someone was going to kill him. So, university officials notified Coleman, and the governor ordered the local police to take King to Jackson for a psychiatric evaluation. After the evaluation, King was granted a hearing, and Judge Stokes V. Robertson committed him to the state mental institution at Whitfield.⁶⁰

Ole Miss Under Fire

The same spring, the first part of Murphy's dissertation was published in the *Mississippi Law Journal* entitled "State Sovereignty Prior to the Constitution."⁶¹ At the time of publication, Murphy was on leave of absence and teaching constitutional law as a visiting professor at Duke University School of Law,^{*} so immediately, he was not subjected to backlash. When he returned to campus in June, Dean Farley called Murphy to his office for a meeting but did not mention the nature of the meeting. When he arrived, Murphy found the provost of the university, Alton Bryant also was present. Provost Bryant took the lead in the meeting and informed Murphy that several professors had been accused by members of the Citizens' Council of subversive behaviors in a letter sent to the Board of Trustees.[†] Bryant expressed that it was the intention of the university to handle

^{*} This was the first of many visiting appointments that Murphy would accept while employed at Ole Miss. Unlike his later leaves of absence, the appointment at Duke was a typical visiting position and was not related in any way to strife at Ole Miss. See Murphy, interview by Sean Deveraux, May 1997.

[†] Previous accounts of the charges have stated that they were first made at the September 1958 Board of Trustees Meeting. However, according to Murphy's interview

the situation, and he asked Murphy to pen a letter stating that he would not respond to the accusations either publically or privately. Murphy then asked if he agreed to not defend himself, if he could count on Bryant to come to his defense. Bryant promised that the university would handle the defense of everyone accused in the charges.⁶² Shortly after, Chancellor Williams called a university-wide faculty meeting for the purpose of informing everyone about the charges that had been made. During the meeting, Williams requested that all faculty members, including those who had not been included in the charges, refrain from making public comments regarding the charges.

As the articles from Murphy's dissertation continued to be published in the *Mississippi Law Journal*, complaints poured in to the editor of the law journal.⁶³ The editor approached Murphy to tell him that there had been so many complaints that Murphy's series may need to be discontinued. Also, M.M. McGowan, a Circuit Court judge in Hinds County, member of the Citizens' Council, and an Ole Miss alumnus, wrote to Dean Farley to complain about the articles, and the judge demanded they not be printed.* Farley, however, refused to censor the journal. He wrote to Judge McGowan that

in 1995, this is not the case, as he was informed of the accusations immediately upon his return from Duke University. Murphy's official university correspondence confirms that he was, in fact, back on campus the first week of June 1958, well before the September Board meeting.

* McGowan's bullying tactics are well documented. During the Meredith crisis at Ole Miss, a Fifth Circuit Court panel issued an order to admit Meredith to the university. McGowan, who was not on the panel, issued a stay of his own court's order, which the

there would be no censor placed on the law journal, and Farley ordered the faculty editor to continue to publish the articles.

Also that summer, Patrick Malin, the executive director of the ACLU, contacted Bill Murphy to seek information about the events that surrounded the failed admission attempt of Clennon King. The ACLU had been informed that King was institutionalized without a lunacy hearing. So, Malin asked if Murphy would provide the ACLU with the facts of the incident as well as the name of an attorney in Jackson who would report to the ACLU as events with King progressed. As no attorney from Mississippi would agree to assist the ACLU for any civil liberties issue, not only racial ones, Murphy agreed to find out as much information about the King case as possible. Murphy contacted a former student, Scott Tennyson, who was practicing in Jackson. The attorney reviewed the state codes applicable to lunacy hearings and also contacted the judge who signed the commitment papers. According to his investigation, Tennyson determined that Kings' rights had not been violated.⁶⁴

Murphy also contacted Hugh Clegg of the Board of Trustees.⁶⁵ Clegg told Murphy that the ACLU should direct questions regarding King's committal to the State Attorney

panel had to overturn. Then, McGowan issued a stay of the panel's order to overturn his stay. This, of course, ended with the US Supreme Court overturning McGowan's order.

In a later controversy involving the editor of the Ole Miss student newspaper, the *Mississippian*, in which the student filed a lawsuit against Governor Barnett for slander, McGowan refused to hear the suit with no reasoning. He simply threw the lawsuit out of court. Charles W. Eagles, *The Price of Defiance: James Meredith and the Integration of Ole Miss* (Chapel Hill: The University of North Carolina Press), 187.

General's office. Murphy relayed the information received from Tennyson and Clegg back to Malin and also suggested to the director of the ACLU that in King's case appeared to be related to mental illness and did not appear to be racially motivated. As far as Murphy was concerned, the King case was closed.

The Charges of Hooker and White

Then, on September 18, 1958, a massive attack against the exercise of academic freedom at Ole Miss was executed when oral statements were made to the Board of Trustees by a group of area residents during which Chancellor Williams and several* faculty members of Ole Miss were accused of various forms of subversion against the "Mississippi way of life."⁶⁶ Specifically, members of the faculty were charged with teaching atheism, Communism, and integration. Among the oral complaints against Bill Murphy were that he supposedly had claimed that the US Supreme Court held a position of superiority to the Constitution; that he had written four articles in defense of integration; that he assisted in seeking legal representation for Clennon King; that he was a member of the ACLU; that he agreed with the values contained in the "Statement of One Hundred"[†] signed in support of the Supreme Court decision in *Brown*; and that he had

* The exact number of faculty members originally accused during the oral statements is not clear. Murphy's personal files indicate "ten to twelve members of the University faculty in the departments of law, history, education, political science and philosophy. See Exhibit #3, WPM Files, Folder 3, n.d.

[†] The Statement of One Hundred was a document that had been prepared by US Senator George Wharton of Pennsylvania that expressed disagreement with the Supreme Court decision in *Brown* but that also expressed that the verbal attacks against the court

used his constitutional law course to propagandize the decision. While not a charge, per se, against Murphy, the residents were angered that despite all of this, he was allowed to serve as marshal of graduation exercises in the summer of 1958.

Several weeks later, ER Jobe, Secretary of the Board of Trustees, requested that detailed written statement be prepared by the accusers and submitted for Board review.⁶⁷ Written comments were to be prepared by the two men who had entered public comments at the Board meeting, Wilburn Hooker (a member of the State House of Representatives) and Edwin White (a former member of the state legislature). Both were former students of the Ole Miss Law School. Hooker, a member of the state legislature, submitted thirty-six pages, including his own prepared statements and those of R.L. Thorn and W.M. Ellis, Jr. to the Board of Trustees.⁶⁸ In his letter of transmittal, White stated that the people who had been involved in the preparation of the document were “loyal Mississippians who are only interested in preserving our way of life for the present and future generations.”⁶⁹

In the document, Chancellor Williams, Dean Farley, and Bill Murphy each were charged, in addition to members of the faculty from other units. In addition to fleshing out the oral arguments made against Murphy, Farley, was cited with being against the abolishment of public school for the purpose of blocking integration. Also, Farley had spoken at a civic club in April 1954. The charges claimed that during the address, Farley

and its justices were not warranted. Wharton’s intention was for the document to be signed by one hundred prominent southern attorneys before being distributed to a broad audience. Dean Farley was asked to sign the document, but according to Farley, before the document had been fully executed by the one hundred, it had been leaked to the public.

Untitled Document, PLF Files, Box 78, Folder Law School, n.d.

had stated that the only way that the US Supreme Court could decide the *Brown* case was “against segregation.” He had signed the Statement of One Hundred, and finally, there was a concern that, as many of the state’s political leaders hailed from Ole Miss Law, the law students and state’s future leaders would no longer desire to defend Mississippi values due to having been subject to subversive influences in the law school.⁷⁰ In short, Hooker and White believed that Farley and Murphy had become a threat to the very space they inhabited at Ole Miss Law, and this would cause a change in identity of the law school’s graduates. The state’s political place could not be threatened by men whose identities went against the state’s racial ideology.

Edwin White recognized that the access to differing legal opinions by students in the law school had the potential to change the way in which the state’s future political leaders approached the law and by proxy, integration. The statements made by White expressed disappointment that the values of the university, which he knew from his time as a student at Ole Miss, were being “subverted under its present administration.” He gave no reason for withholding his charges for so long but claimed that he had been collecting his evidence against the school since 1952, while he still was a member of the state legislature. Before mapping out his charges, White laid out what he believed to be “keystone principles of our civilization here in Mississippi,”⁷¹ which he believed were:

1. One omnipotent God, the truth of the Bible, and immortality of souls;
2. The Sovereignty of the State in matters granted by the Constitution, including the operation of public schools and the regulation of marriage within the state;
3. The supremacy of the Constitution over the Supreme Court;

4. The “ethnological truth” that interracial marriage is a result of social mixing of races;
5. That whites have “the obligation, and the inalienable right to preserve the identity of the white race”; and
6. That “real liberty exists only where there is the right of private ownership of property, and the right to profitable engagement in private enterprise.”⁷²

To White, Mississippi was a civilization, a separate place from the rest of the nation, defined not only by geographic boundaries but also by the boundaries drawn around race and state sovereignty by the majority opinion within the state.

White also accused people within the university of subversion, to which he provided some clarification of the charge itself. Perhaps in an attempt to not come across as hysterical, he claimed that he had always viewed subversion to be synonymous with Communism but had recently studied the word itself and had found that it meant to “overturn.”⁷³ White’s explanation of subversion suggests that in order to be found guilty, there need not be a direct link found to Communism. Therefore, professors at Ole Miss need not be directly linked to Communism, as White believed their actions clearly demonstrated an attempt to overturn the values of the state. It is notable that, at the time, charges of Communism were typically made in reference to infractions against the nation, but White and Hooker both placed a great emphasis on subversion against the state itself, which is reflective of the strong states’ rights political ideology the two men held.

Hooker and White both released their charges to the media, and though the charges had been formally filed with the Board of Trustees, the men did not cease making accusations. In addition to calling Bill Murphy “dangerous,”⁷⁴ they reported to newspapers

that Farley had publically defended the Supreme Court at the Arkansas Bar Association's annual meeting in 1955 as well as the Shreveport Bar Association in 1958. While they never provided explanation for why their final accusation against Farley was a mark against his character, they also complained that Farley was the dean of the law school when Supreme Court Justice Felix Frankfurter spoke on campus.⁷⁵

Edwin White went on to reinforce his attacks by reaching out to the citizens of the state through the media. He wrote to multiple newspapers regarding his charges and, in doing so, also added to his formal list of "pinkos"* and subversives in the university.⁷⁶ He also continued to elaborate on his accusations against Bob Farley. According to his own recollection, in 1954, when the state had proposed the School Abolition Amendment, Farley openly opposed the amendment, "because a few negroes were in them."⁷⁷ He strengthened the link between Farley and Communism for the readers of Mississippi's newspapers by claiming that the Statement of One Hundred had been written by members of the ACLU, "a Communist Front Organization" whose "purposes and objects can be greatly promoted by the silencing of criticism against the decisions of the United States Supreme Court."⁷⁸ For White, these events were detrimental to the future of the state. According to him:

"Our Governors, Judges, Legislators, United States Senators and Congressmen often come from the Ole Miss Law School, and few students after having spent

* The term *pinkos* first appeared in *Time* magazine in 1925 and was used to refer to leftist sympathizers. The notion was that pink is lighter than red, and pinkos were not fully indoctrinated communists but were in danger of becoming such. See Joseph J. Firebaugh, "The Vocabulary of *Time* Magazine," *American Speech* 15, no. 3 (October 1940), 51-63.

three years ‘working and living’ under the above subversive influences, will have the desire to defend and protect the principles which have made our State great, and without which, it will surely perish.”⁷⁹

So, there it was, in print for Mississippians. Two men were threats to the entire political place of the state.

White accused Will Campbell, the director of religious life at Ole Miss, of playing basketball with a black student; Roscoe Boyer, a school of education faculty member of bragging that he had been born in the North and of making jokes about the southern drawl; James Wesley Silver, chairman of the history department of denigrating the Confederacy; and Quinton Lyon, a professor in the philosophy department, of apostasy. White went on to claim that both a communist cell and a chapter of the NAACP were operating on campus. In separate installment of accusations, Hooker and White claimed that the library was promoting integration not only by purchasing pro-integration books but also by placing them in the reading room and leaving pro-segregation books in the stacks.⁸⁰

The charges made by Hooker and White were reflective of the majority opinion in the state at the time regarding race, politics, and education, but the urgency expressed in the words of the men point to the fact the majority opinion was subject to change if access to differing perspectives were allowed to enter into the state. Clearly, the men viewed this to be subversive because the ideologies of the state were reinforced in the state’s political places. Ole Miss and its law school were founded for the preservation of those places, and the university’s leaders and teachers had threatened the stability of the space that had been maintained by the majority opinion, which in turn, was a threat to the place of politics in the state.

Ole Miss Fires Back

After a review of the charges submitted by Hooker and White, the Board decided to entertain them and notified Chancellor Williams to put together a written defense of the charges.⁸¹ While the Chancellor complied and began a formal investigation, he also submitted a formal statement on behalf of the university and submitted it to the Board. In his statement, Williams accepted the principles laid out in White's written statement regarding the values of Mississippi—with the caveat that the university may adhere to other principles as well but that none were in conflict with White's.⁸² The Chancellor also claimed that he had never taught in an integrated institution and that he actually supported segregation. Further, Williams proclaimed that he believed that the Constitution of the United States is superior to the Supreme Court and that the state is sovereign to powers not expressly granted to the federal government by the Constitution.⁸³

Beyond those statements, Williams spent little time defending himself but instead dedicated a considerable number of pages to the defense of Ole Miss and the defense of the academy in general. He unquestionably denied charges of apostasy, subversion, and directed efforts on behalf of the university to integrate blacks and whites on campus. In his view, the pertinent question for the Board's consideration was whether an employee should be fired for holding views that "at the moment are not popular and are not held and supported by a majority of the people," to which Williams answered no. He reasoned that if a university "is to grow in the academic space of service and prestige, it must remain free to explore, to discuss, to study, to learn about anything that interests or affects mankind,"⁸⁴ and then the chancellor turned the responsibility for protecting such freedom back onto the Board.

Williams pointed out the very legislative action that empowered the Board to function, Section 213-A of the Constitution of the State of Mississippi, which dictated the authority of the Board to, “elect the heads of the various institutions of higher learning, and contract with all deans, professors and other members of the teaching staff, and all administrative employees of said institutions” and also empowered the Board with the “authority to terminate any such contract at any time for malfeasance, inefficiency or contumacious conduct” also prevented the Board from ever terminating a contract “for political reasons.” He then tactfully suggested that under the standards of SACS, which protects a teacher’s “freedom to teach the truth as he sees it” and also states that the “practice of filling or attempting to fill educational posts with political ‘favorites’ by governors or other officials or by representative of other vested interests, ecclesiastical or economic, can never be justified, because it destroys educational integrity,”⁸⁵ the Board could not sanction any professor for the charges made against them.

Williams went on to state that his point of view was, “supported by eminent educators,” and quoted the *Journal of the American Association of University Women*, that the university will “study every question that affects human welfare, but it will not carry a banner in a crusade for anything except freedom of learning.”⁸⁶ He reinforced the fact that his view was not novel, as it was also supported by the Committee on Government and Higher Education, former Chancellor of the University of Mississippi, Alfred C. Hume, President Herbert Hoover, President Virgil M. Hancher of the State University of Iowa, and President Thomas Jefferson, quoting similar sentiments of each.

Williams also pointed out the hypocrisy of the charges, and directed the Board to the University of Mississippi’s own bulletin, which stated that the university is a place

where “men and women are free to question and seek for answers, free to learn and free to teach.”⁸⁷ He finished his defense by quoting a passage from a study published the same year by Malcolm Moos and Francis E. Rourke, *The Campus and the State*, which found that:

The academic point of view, of course, is strongly in opposition to the idea that legislatures should approve topics of education. The great lesson of the free academic tradition is that higher education must be free to roam the avenues of knowledge without the guidance of preconceived political dogma...It should be noted that the case of the Mississippi legislature indicates the farthest extent of contemporary legislative involvement in educational affairs, and in this sense is atypical. Seldom do state legislatures ferret into policies that are generally conceded to be internal responsibilities of the universities—selection of faculty members, choice of texts, and content of courses. Nor are recent cases of legislative interference confined to the Southern states where integration is a major issue.⁸⁸

Williams distributed a copy of the letter to all of the academic heads within the university. He approved the further distribution of the letter to the faculty but requested that the letter remain within university faculty. Knowing that in the wrong hands, his defense could add fuel to an already raging fire, he could “see no good that can come from giving it wider circulation.”⁸⁹ If Williams’ defense of the place of Ole Miss as an academic space were to be successful with the Board, it had to be quietly executed. The Board was already under political pressure and could not afford additional complaints before issuing its judgment.

The administration went to work to formally investigate each individual charge that had been made to the Board as well as the additional claims that had been released in the media. Everyone who was under scrutiny received a copy of the charges and were allowed to submit responses to the administration in writing.⁹⁰ Additionally, the provost and dean of students interviewed students, faculty, and staff members regarding the individuals named by Hooker and White, and a full report was compiled for submission to the Board. The document, forty-eight pages in length, first outlined the growth and progress that the university had experienced under the leadership of Chancellor Williams. It went on then to address specifically and in detail each charge made against each individual at the university.⁹¹

Although Murphy had kept his promise to the provost for a time, after he prepared the response to his own charges, he broke the promise and his silence and sent a copy of his defense to the *Clarion Ledger* for publication. In his response, Murphy reported that the proposal for dealing with the *Brown* decision was sent by him to seventeen senators from across the South and largely had been received favorably. He also revealed that the proposal had been reviewed by the members of LEAC, including Chief Justice McGehee, J.P. Coleman (who was Attorney General of Mississippi at the time Murphy wrote the report), house Speaker Walter Sillers, and Board chairman Thomas (Tom) Tubb. According to Murphy, the committee, like many of the congressmen, also had found favor with the proposal though they were in agreement that the proposal was “politically unattainable.” Murphy also pointed out that a component of his proposal “to curtail the jurisdiction of the federal courts in school segregation cases”⁹² had been incorporated into

a federal bill introduced by conservative senator James Eastland, a fact that had not been reported in the state's newspapers.

In his editorial, Murphy also pointed out that he had not only criticized the *Brown* decision but had done so publically in his review of the decision published in the May 1958 issue of the *Mississippi Law Journal*. He also punctuated the fact that he had never claimed that the US Supreme Court held any legal standing over the Constitution but that he did not “believe in forcible resistance” to any laws. Nor did he believe in abolishing the educational system in the state in order to obviate the court's decision. He went on to express that he did, in fact, support the Statement of One Hundred, which he claimed was in defense of the “historic function of the Supreme court in our Constitutional system.”⁹³

Murphy then defended his membership in the ACLU* and denounced the charge made by White that the ACLU was a subservient organization, pointing out that admission requirements precluded it from being such. Quoting the application materials of the ACLU, Murphy wrote that “the ACLU needs and welcomes the support of all those—and only those—whose devotion to the civil liberties is not qualified by adherence to Communist, fascist, KKK or other totalitarian doctrine.” Further, the ACLU was founded to defend the Bill of Rights on behalf of every American, and as the organization was non-partisan, that meant defending “Fascists, Communists, Socialists, Republicans, and Democrats; whites, blacks and yellows; rich and poor; segregationists and integrationists.”⁹⁴ According to Murphy, the organization had been defended and praised by a variety of persons and

* Interestingly, Murphy had no prior knowledge of the ACLU before attending Yale. He claimed that to him, it “seemed to be a pretty worthwhile organization.” Murphy, interview by Walter H. Bennett, Jr., May 15, 1995, 2 (Interview 2).

publications of differing political and religious dispositions including, President Truman, President Eisenhower, and General MacArthur; and the *New York Times*, the *Christian Science Monitor*, and *Hearst* newspapers. Then, in conclusion, so that there would be no question, Murphy explained to his readers, his personal identity, writing:

I was born in the South, grew up in the South, and was educated in the South. I received my law degree from the University of Virginia. I devoted four-and-one-half years to the service of my country in World War II, over three years of which was in advanced combat areas. I will match my patriotism and love of country with that of any man. As an American, as a lawyer, and as a teacher, I have a profound respect for the Constitution of the United States and for our system of government. This is the first time in my life I have been accused of being subversive or pro-Communist, and I deeply and bitterly resent it.⁹⁵

The law professor received numerous letters of support from students and also from former students, identifying the charges that had been made against Murphy as “unfounded”⁹⁶ and “ridiculous, hollow and without basis.”⁹⁷ One supporter, a practicing attorney from Meridian, believed that the situation would end very quickly but in the case that it did not, offered his assistance to Murphy. He advised Murphy to not hastily leave the university but asked that the letter be kept confidential, as he was running for the election to the state legislature, noting, “Lauderdale County has its share of ‘Demagogues’ also.”⁹⁸ The quiet letters of support indicate that Murphy’s identity was not unique in the state. He simply was more vocal in expressing his identity than most.

While Farley never took to the media in his own defense, his response to the allegations against him were recorded in the report submitted to the Board of Trustees.

Regarding the accusation that he was against the School Abolition Amendment, Farley's defense was rather weak in that he refrained from taking a strong position one way or the other. Rather, Farley responded that it was not possible to have taken any position for or against the amendment based upon race alone because he was neither for integration or against segregation.⁹⁹

Regarding his position on the *Brown* case, Farley responded that he had familiarized himself with every court decision that had led to *Brown v. Board of Education* from the Slaughterhouse cases to The Texas Regents case in 1952. Based upon his understanding of the law and the trends in the courts' decisions, his position was that the Supreme Court, in deciding *Brown*, had to either overturn *Plessy* or to overturn the entire line of cases since Missouri.* He also claimed that his opinion was not meant to be a statement about the integration of schools but was a prediction of the outcome of *Brown* based upon the trends of previous courts in interpreting the Fourteenth Amendment. His public defense of his opinion of *Brown* was consistent with the quiet approach he had previously attempted in trying to integrate the law school in a controlled manner.

To the allegation that Farley stated to the Municipal Officers Association in Biloxi that the State of Mississippi could not "outsmart the Supreme Court," Farley did not

* *State of Missouri ex rel. Gaines v. Canada, Registrar of the University of Missouri, et al.* (305 US 337, 1938) established that segregation by exclusion was unconstitutional, and that paying for a black student to attend an out-of-state institution was not a serviceable substitution to the separate but equal doctrine. Thus, public institutions either had to allow whites and blacks to attend the same institution or to provide separate institutions for blacks that were in fact, equal.

respond directly. Rather, he claimed that he disagreed with the decision when the Supreme Court issued it, and still he disagreed. He made it clear, however, that he had never attacked the integrity of the Court “as an institution,”¹⁰⁰ nor had he ever attacked an individual member of the Supreme Court, suggesting that his failure to verbally assault the high court had been misinterpreted by Hooker and White to mean that he agreed with the decision.

He also clarified that in his speech to the association, he anticipated fears of miscegenation would lead to an attempt to abolish public schools. He believed that “some politicians would get so intrigued with defeating the Supreme Court decision in toto that we would lose our sense of balance,” but that “whatever we did we would never get so engrossed at defeating the Supreme Court that we sacrifice the education of white children.” Farley suspected that those statements were the ones he made that had been construed as not “outsmarting the Supreme Court.”¹⁰¹

After the formal charges had been filed with the Board of Trustees, Hooker and White had reported to newspapers a single allegation against Law Professor John Fox, Jr. They accused Fox of stating at a 1955 law school reunion that the people of Mississippi could not expect the law faculty to teach law students to disobey the decisions of the Supreme Court. Fox denied making the statement; however, the report made to the Board stated, “As a matter of principle, Dean Farley and Professor Fox join in saying, ‘You don’t expect us to teach disobedience to the decisions of the Supreme Court of the United States.’”¹⁰²

The chancellor received an outpouring of mail from citizens around the state and nation. Although some of the correspondence presented less than favorable views of the

chancellor and his leadership of the university, largely the tone was supportive. The alumni associations of Winston, Lauderdale, Coahoma, and Pike Counties as well as the Grenada Alumni Association all passed resolutions in support of the chancellor and of the University of Mississippi. The Lauderdale County Bar Association passed a resolution in support of the Chancellor as well as in support of Dean Farley and the law school.¹⁰³

Murphy too received numerous personal letters of support, but for all of the support he garnered,¹⁰⁴ he did not have the support of the State Bar Association. While members of the Bar did not want Murphy to leave the university in a controversial way, they wanted him out of Ole Miss Law. Many contacted Dean Farley and asked him to help Murphy find employment outside of the state.¹⁰⁵

Throughout the summer of 1959, the investigations into subversion on the campus of Ole Miss were publicized heavily in print media, as the state awaited the fate of Ole Miss.¹⁰⁶ Finally, in August 1959, after a long period of consideration, the Board of Trustees released a formal statement of their findings. The Board identified the charges made against Ole Miss and its faculty and staff members as “sensational” and found in favor of the administration and faculty. The Board reaffirmed their confidence in Chancellor Williams and his “beliefs, his actions, and his loyalty to the principles of our state and nation.”¹⁰⁷ As far as the Board was concerned, Williams shared space with them, and they were satisfied.

Further, they found every allegation made by White and Hooker to be “unfounded.” In the report, the Board stated that, “there are more than one thousand staff members employed in the eight institutions maintained by the State of Mississippi. Nothing could be more destructive to the program of instruction in these institutions than for all of these

people to be of exactly the same opinion on all issues.”¹⁰⁸ The report also stated that the Board supported the freedom of faculty members in research and teaching endeavors and that they found only a few limited cases of “tactlessness and imprudence” among the faculty and staff between 1952 and 1959, but the report did not elaborate further.* The Board then approved the contracts of all who had been under fire for the 1959-60 academic year.¹⁰⁹

The next day, headlines exploded throughout the state. Moderate Mississippians were relieved that the faculty had been cleared of the charges and that threats to academic freedom had failed, and the state’s conservative citizens were relieved that a communist cell had not been operating at Ole Miss. The *Jackson Daily News* had reported that the Board asked Chancellor Williams to sign a loyalty oath.¹¹⁰ The Board minutes, however, indicate only that the special committee’s report was adopted, all university personnel,

* While the Board did not publically elaborate, the document submitted to the Board by Chancellor Williams reveals that on several occasions, faculty members acted in ways that, at the time, would have been considered to be unprofessional. Interestingly, today, they are illegal. For example, on one occasion, a professor of education commented publically to his students about a high school student’s college entrance test scores, which he had administered. At the time, the professor’s actions were controversial, not because he shared private information about a student but because the student was black and had the highest scores of anyone in Mississippi to which the professor had ever administered the entrance examination. The implication then was that the professor believed that blacks were smarter than whites.

including Williams, were cleared of all charges, and that the case was considered closed.¹¹¹

Dissatisfied that their multi-wave attack had failed, Hooker and White continued to write to newspapers with charges, calling the Board's decision, "a general denial" of their complaints.¹¹² They released twenty-six specific charges to papers, and stated that the people of Mississippi demanded a detailed response of each charge individually. The Board never replied. It seems that as far as the Board of Trustees was concerned, the matter was over.

Supporters of Williams and the professors never spoke publicly to news outlets, but they continued in their letter-writing campaign, flooding the university post office with praises for the administration and faculty of Ole Miss.¹¹³ Dissenters, however, knowing that continued letters to the Board of Trustees would bear no fruit, directed their mail to a new zip code. They flooded the office of US Senator James Eastland with demands that their senator take action. Eastland claimed that he had not known what had been happening back in his home state but vowed to conduct an investigation, though it is not known whether he ever did.¹¹⁴

A writer from United Press International (UPI) then contacted twelve officers from a variety of student organizations to comment on the charges made against the university. Ten of the students agreed to respond to questions and generally agreed that the charges were unfounded. Some were stronger in their positions, calling the charges, "untrue, absurd, and a bit silly," and "radical mumblings"¹¹⁵ but they seemed to be careful to not answer any questions in detail. After that, the rest of the state seems to have rested along

with the Board, and Ole Miss Law enjoyed peace and quiet and the ability to invest its energies to back into academics.

As the decade came to an end, Ross Barnett was elected and appointed five new politically active board members including M.M. Roberts, Ira “Shine” Morgan, Ray Izard, William O. Stone, and Leon Lowry. Barnett and his new appointees soon became deeply involved in the affairs of academia. The Sovereignty Commission, with the approval of Barnett, investigated a student and budding journalist from Ole Miss who had traveled to Atlanta to cover sit-in demonstrations in the summer of 1960. Upon his return to campus, the student, Bill Barton, sought election as the editor of the student newspaper. Based upon erroneous information gathered by the Commission, the group had classified Barton as an agitator. During the election, the Commission leaked their findings on campus, and the student was defeated. This was the first direct interference into the affairs at Ole Miss by the Barnett administration, but it would not be the last.¹¹⁶

A Second Surge in the Attack of Professor Murphy

Also that year, Bill Murphy came under attack yet again. This time, the attack came directly from the state’s political stronghold. Though the Board of Trustees had absolved the professor of any wrongdoing, members of the state legislature wanted Murphy out of his post in the law school. In the regular session of 1960, Senator Edgar Lee of Prentiss, penned Senate Concurrent Resolution No. 155. The *Ouster Bill*, as it was referred to by media outlets, directed the Board of Trustees to terminate Murphy’s employment with Ole Miss. Senator Lee justified the action based upon the same arguments Wilburn Hooker and Edwin White had made during the Board of Trustees hearing in 1958. First, the Senator targeted Murphy as an educator, as he was “teaching

young law students at the University of Mississippi that the Supreme Court is the law of the land.”¹¹⁷ For Lee, academic freedom was to be completely disregarded. In fact, the senator’s treatment toward Murphy’s teaching indicated that in his view, academic freedom had no place in Mississippi, and Mississippi had not the space for academic freedom.

Second, Senator Lee’s resolution attacked Murphy for his affiliation with the ACLU. The senator devoted much language in the resolution also to attacking the ACLU itself, stating that the organization’s “published theories on the matter of segregation versus integration have long been a source of dissatisfaction to tens of thousands of Mississippians.”¹¹⁸ According to the resolution, the ACLU promoted “policies diametrically opposed to the best interests of the southern way of life and the sovereignty of the State of Mississippi”¹¹⁹ and “has upheld the right to publish obscene literature.”¹²⁰

Third, the language of the resolution once again attacked Murphy’s professional interpretations of the law. The final support for Murphy’s ouster was that “alumni and students of the University of Law School have reported that Dr. Murphy ‘advocates philosophies contrary to the maintenance of states’ rights, state sovereignty and the continuance of segregation in our public institutions.’”¹²¹ Therefore, if the resolution to have Murphy fired passed, the State of Mississippi also would effectively codify an official state position on the ACLU and on academic freedom.

Fortunately for Bill Murphy, the members of the senate were not in unanimous agreement with Senator Lee. Senator Marion Smith of Natchez agreed with the principles of states’ rights as they had been mentioned in the resolution, but he was concerned that an important principle had been overlooked—due process. Smith did not necessarily support

Murphy but believed that “every man is entitled to face his accuser.”¹²² Because the legislators could not agree regarding the bill, the Senate declined an immediate vote, and Senator Flavous Lambert of Belmont moved to send the resolution to the judiciary committee. Lambert’s motion passed, and the resolution was sent to the judiciary committee, which would allow Murphy to be afforded a proper hearing.

A week later, however, the *Commercial Appeal* reported that the Senate Judiciary Committee chairman W.B. Alexander of Cleveland had commented that the resolution to terminate Murphy’s employment would die in committee due to the inability to hold a hearing by the end of the Senate session, which was only two weeks away. Murphy had also spoken to the press and was disappointed about the possibility of not having a hearing. He told the Memphis newspaper that he welcomed the opportunity to face his accusers, but that would never happen.¹²³ The bill, as anticipated by Alexander, simply died in committee.

The failure of the Ouster Bill, not only made headlines in bordering states, it made headlines throughout the country,^{*} and Murphy became even more vocal than he had been in the past. By that point, he felt the time had come to his own defense and also to the defense of academic freedom.¹²⁴ In regard to the *Brown* decision, Murphy was quoted as stating, “Of course I teach that Supreme Court decisions are law. No professor with any integrity would do otherwise.”¹²⁵ He also told the papers definitively:

I want to make this absolutely clear. I do not intend to give up my membership in the ACLU because of attempted political intimidation. I do not intend to tailor my

^{*} Interestingly, the conservative newspapers in Jackson, *The Jackson Daily News* and *Clarion Ledger*, failed to print Murphy’s comments at all.

teaching to satisfy any cult of crackpots, fanatics and willful ignoramuses. As to my teaching, it is a lie that I have ever advocated integration in my classes. It is not my job to teach either segregation or integration. I am paid to teach constitutional law and this includes the Supreme Court's segregation decisions. My approach to these cases is legal and analytical and not partisan and emotional.¹²⁶

Murphy may have remained emotionless in the classroom, but his press release indicated that he had become rather emotional toward his oppressors outside of the classroom. It is obvious that he had tired of the sustained pressure he had experienced since the fall of 1958, and Bill Murphy needed a change of location. Fortunately, the opportunity would soon present itself.

Between 1953 and 1960, the Ole Miss Law faculty experienced a number of blows upon academic freedom, all related primarily to race but also reinforced by the principle of states' rights, which was strongly upheld by the majority opinion in the state. However, the support of Murphy, Farley, and the entire university throughout the duration of these events reveal that there were Mississippians who disagreed with the majority opinion, at least in its entirety. It is difficult to conclude what individual identities existed at that point in time and what ideals were constructed by this growing space of alternative identities.

The evidence reveals strong support for the separation of politics and education and disdain for the harassment of individuals. Yet, supporters of Ole Miss Law refrained from mentions of race in their support for the law school. One possibility is that they were afraid for their support to be attached to the race issue. The Lauderdale County attorney who feared retribution during his legislative campaign did not mention race, specifically, but he made it clear that he did fear that public support of Murphy would be damaging to

him. Of course, another possibility is that some people in the state did not view race and politics to be mutually exclusive, even though the majority opinion treated them as such. In any case, there were opinions that did not fit into the political space of the state. Though, they were not aggregated to a point of disrupting the dominant ideology.

CHAPTER V

THE FINAL BATTLE CRIES OF WILLIAM PATRICK MURPHY AND ROBERT J.
FARLEY

“But the truth is that, for his time, given the then-existing climate that prevailed in the wake of the Brown decision, what Bill Murphy did and said was heroic.”

Samuel Marion Davis

Down But Not Ousted

In addition to members of the state legislature, members of the State Bar Association remained disgruntled with the Board’s decision. According to Murphy, they privately put pressure on Bob Farley to help find him a position in another state.¹ The loyal dean, however, resisted and instead stood up for Murphy based upon his right to academic freedom. By this point, however, Murphy was ready to seek employment elsewhere.² He had considered leaving Ole Miss for some time, and Murphy finally decided that an exit was in order, not to make a statement one way or the other regarding race relations in the state, but to take a stand against violations of academic freedom. That was a space that Murphy believed should be defended at all costs. He also wanted to avenge the insults made to his integrity, and opportunity would soon knock on the professor’s door.³

For every dissenter, Murphy had at least one supporter, and he often received letters of support from around the state and the nation. Future governor William Winter, who at the time was the State Tax Controller, wrote to Murphy a letter of support and encouragement. In responding to Winter, Murphy made an insightful observation regarding his treatment. He noted that he had “never considered that their real target was

[himself] or the Dean or any particular individual. The real sin was to intimidate anyone and everyone in the teaching profession who might see things somewhat differently than they did.”⁴ Within the state, Murphy had been made an example; however, outside of the state, Murphy claimed that the publicity had greatly improved the impression of his teaching abilities. Acutely aware of his situation, Murphy’s heightened emotions had calmed somewhat. Nonetheless, he was ready to leave the closed society of Mississippi.

Murphy’s students supported him as well. Quietly, the law school Student Body, under the leadership of Presiding Officer Pat H. Scanlon, passed a resolution to present to Dean Farley a signed petition to be forwarded to state legislators if, “in his discretion, the need arise.”⁵ The petition asked the state legislature to “abandon the attacks” on Murphy, claiming that he had “never advocated integration in any of his classes.” Further, the students pledged their “complete faith, trust and absolute confidence in the teaching ability and integrity of” the professor and stressed that he was a needed faculty member at the University of Mississippi. The petition stated that had it not been published by September 25 of that year, it was to be destroyed, likely due to the fact that students were susceptible to becoming entangled in the political crossfire. As many of the law students were future political hopefuls, they could not afford backlash, even for a cause they deemed worthy. Nearly every student of the law school signed the petition, including the sons of Governor Ross Barnett and Justice Tom Brady.⁶ Farley kept the petition private out of fear that the students would face future difficulties in their own professional lives for having signed the document.

The same year, Bill Murphy was made an honorary member of the newly established Phi Beta Kappa chapter at his alma mater, Southwestern University.⁷ Murphy

called Marvin Black, the faculty editor of the student newspaper at Ole Miss, *The Mississippian*, to have his achievement printed. Black told Murphy that the story would run in the next issue but called Murphy a week later to tell him that the copy had not been approved and would not be published in the paper.⁸ He was never clear about who refused to approve the story. Black simply told Murphy that he was told that he could not run the news-piece. Murphy did not fight back. He carried on and managed to finish the semester without further incident and then left quietly for a one-year visiting appointment at the University of Kentucky School of Law (Kentucky).

Farley Draws Controversy

The attention had been on Murphy for some time, but in his absence, Farley managed to bring a large amount of negative attention to himself. In January 1961, Dean Farley, on behalf of the Student Speakers' Bureau of the Law School, invited US Supreme Court Justice Tom Clark to be the guest speaker at an annual dinner hosted by the bureau to be held in the gymnasium on campus.⁹ Clark himself was a native Texan, and his father, William H. Clark, was a native of Brandon, Mississippi and had earned his undergraduate degree from Ole Miss. Prior to 1954, Clark would have been welcomed with open arms by his father's native country, but in 1961, that would not be the case. The problem with Tom Clark was that he was on the high court's bench at the time of the *Brown* decision, rendering Clark's blood ties to the state insignificant. Clark was not only an outsider, he was an enemy, a threat to the racial spaces of the state, and his presence in the state would not go unnoticed.

The announcement of Clark's invitation to speak at the event sparked much controversy. House Speaker Walter Sillers, who had been a member of the Mississippi

legislature since 1916, not only publically spoke out against Clark's visit to the university, in protest, he refused to attend the banquet. Sillers told newspapers that he did not "understand why the university insists on inviting members of the Supreme Court who participated in the unanimous decision outlawing the 'separate but equal facilities' doctrine."¹⁰ Sillers also disapproved of Clark's position on the constitutionality of Cold War era laws related to the freedom of association.¹¹ The conservative *Jackson Clarion Ledger* joined Silers' sentiments reporting that, in addition to his approval of the *Brown* decision, Clark had "gone right along on other expansive interpretations of the national constitution far and above the actual wordage of that constitution."¹²

These words resonated throughout the state, and once again, mail began to pour into the university. Chancellor Williams, particularly, was bombarded by many letters in opposition to Clark's presence on campus, which, once again, showed that for many Mississippians, race and Communism comingled in the same space. One letter to Williams called Clark "a known enemy of the South,"¹³ and suggested that to have him speak on campus "lends courage to the communists and left wingers to bring more pressure to bear against those of us who are fighting integration and Communism." The letter also commended House Speaker Silers for "his courageous stand against integration and Communism."¹⁴

In another letter to the chancellor, a parent of two secondary school students in Ruleville, Mississippi threatened that if the university continued to "be so indiscreet in its selection of men to speak," he would not allow his children to attend Ole Miss upon high school graduation. The parent went on to state that there was no reason for a university that had produced Miss Americas and that had a nationally recognized football team to

conform to the liberal leanings of the nation and suggested that the conformance of the school was due to a “lack of leadership.” In his view, Ole Miss should take a stand and “dare to be different,”¹⁵ an interesting view considering his opinion was the majority opinion, and the majority opinion rejected the acceptance of difference.

Despite pressure to cancel the speaker’s invitation, Chancellor Williams held his ground. On March 2, 1961, he sent out a form response en masse to his opposition. Williams defended the speaker invitation, but his defense, unlike previous times, was rather weak. Williams defended Clark’s presence on campus by defending the choice of the student body to have Justice Clark speak on campus, and it was not in strong support of student academic freedom. Instead, Williams suggested that to do otherwise would cause the students to leave the state, writing that, “there are times, it appears, when it may be better to cooperate with the students than to deny them and have them leave the State with resentment. . . . They undoubtedly include many of our future leaders. They give us much hope for our future.”

Williams suggested that his goals were the same as his dissenters and that both were “dedicated to their interests and welfare, as well as to the laws and traditions of our State.”¹⁶ This was an unusual maneuver for Williams; for, *en loco parentis* had not yet been challenged in higher education. Rather, students were expected to conform to the majority opinion by the act of remaining silent in their views of the majority opinion regardless of their personal identities.

Retreat

In other affairs, Chancellor Williams was working with Provost Charles F. Haywood, who had succeeded Alton Bryant upon Bryant’s promotion to Vice-Chancellor

to establish tenure guidelines for the university. In February, the Provost compiled a list of faculty members, including instructors, who had been employed by the university prior to the end of the 1949-50 academic year. In the law school, that included John Fox, Jr., Joel Bunkley, Jr., and Bob Farley.¹⁷ The next month, the chancellor notified these faculty members of their tenure status. In his notification, the chancellor wrote:

This letter is directed to you as part of our current effort to clarify the status of each faculty member with respect to tenure. As you were appointed to the faculty prior to the conclusion of the 1949-1950 academic year, your appointment was automatically placed on a tenure basis after one year of service.

The laws under which the University operates do not permit the Board of Trustees to contract with employees for indefinite periods. Tenure should, therefore, be regarded as a moral rather than a legal commitment about the permanency of your appointment to the faculty.¹⁸

Meanwhile, Murphy was enjoying a reprieve and was teaching constitutional law at University of Kentucky in Lexington. The change in location was good for Murphy. He found the law school to be pleasing and also found that racial tensions in Lexington were not as heightened as they were in Mississippi.¹⁹ While there, the dean of the law school had discussed with Murphy the possibility of serving as a permanent replacement for Kentucky's constitutional law expert, Paul Oberst. Oberst was on leave from Kentucky and was considering accepting a permanent appointment at New York University (NYU). Murphy felt good about the prospect, but much to his dismay, the position at NYU did not pan out for Oberst. So, Oberst was to return to Kentucky, which would force Murphy back to the tumultuous space of Oxford.

In December that year, while attending the annual meeting of the AALS, Murphy told Farley that he was seeking offers of employment from other law schools. Murphy stated that his primary reason “was the unpleasant atmosphere created by the public attacks” made both in the press and by the state senate. Murphy was also concerned about his financial stability. Had the legislature been successful earlier in the year, Murphy would have been left without employment and no time to secure a job for the following academic year.²⁰ Bob Farley chose not to give Murphy advice whether to stay or to make an attempt to leave, but Farley considered Bill Murphy to be more than a colleague. Murphy was also a friend. He vowed to Murphy that he would support continued reappointment of Murphy’s position in the law school. Shortly after, Murphy was offered a visiting position at the University of Missouri for the 1961-62 academic year, but because of the exchange between the two at the convention, Murphy turned down the offer.²¹

Murphy would later learn that he should have accepted the offer from Missouri. In mid-February, Farley phoned Murphy to tell him that the Citizens’ Council had tried to persuade the Board of Trustees to deny the renewal of his contract. Farley was a quiet man who had not been vocal when he was under attack, but he told Murphy that he was prepared to resign his own appointment if the Board did not renew the contract. However, a few days later, Farley found out that Governor Ross Barnett asked his Board appointees to decline the Chancellor’s recommendation to renew Murphy’s contract. Around the same time, a group of former Ole Miss Law graduates approached Farley privately and asked him to persuade Murphy to resign reasoning that Murphy’s resignation would be in the best interest of the law school. The (unnamed) graduates raised two thousand dollars,

Murphy's summer salary, to be paid to Murphy in exchange for his agreement to not teach during the summer 1961 session.²² Pressures were quickly mounting on Farley to remove Murphy. The threat to Murphy was no longer from a single barrel, and it was not clear if Murphy would be able to escape.

While many of the law school's alumni did not want Murphy in the classroom, the law faculty did not agree. By the end of February, the entire faculty of the law school had become aware of the situation and were in full support of Murphy's return. They were equally alarmed by attacks on academic freedom in the law school.²³ Even Chancellor Williams and Provost Haywood knew that refusal to allow Murphy to teach during the summer session was a clear case of denial of academic freedom, and both informed Farley that they were prepared to fight for and support the appointment of Murphy for the summer term.²⁴

Murphy, still on leave of absence, wrote to Dean Farley that he would need for his contract to be renewed at Ole Miss for the upcoming year. After learning that his reappointment may not happen, Murphy contacted the dean at Missouri, but he had already found a professor to fill the position for the year. Left with no options, Murphy felt the time had come to appeal to the Chancellor directly, and Farley agreed.²⁵

Murphy first wrote to Chancellor Williams indicating that he understood the Board's refusal to renew the contract as a dismissal, as no tenure system* was in place in the law school. Because of this, Murphy requested that he be granted academic due

* Murphy wrote this letter the month after the chancellor and provost had begun to award tenure. It appears that at the time of the letter, Murphy was unaware that a system of tenure was being put into place.

process, including a hearing during which he could “confront and cross-examine those who were demanding his discharge.”²⁶ He also stated that he thought that the actions against him should be reported to the AALS, the Legal Education Committee of the ABA, the AAUP, and the university’s Faculty Committee on Academic Freedom. He asked the Chancellor to apprise him whether reports would be made on his behalf or whether he should file them himself.

While the chancellor avoided emotional language, his response painted the picture that Murphy had been hysterical about his contract situation. According to the chancellor, his only knowledge of opposition to the renewal of Murphy’s contract was “rumor.” He stated that implied in the leave of absence was a right to reappointment upon Murphy’s return “subject to [his] own decision whether [he] would return to the University and subject to the usual conditions affecting continuation of service.” However, he failed to define what constituted “usual conditions.” Williams knew that Murphy had been considering other positions for the fall. So, it was his interpretation that Murphy was being indecisive as to whether to would return to the university at all. Thus, the chancellor reasoned that any official request for Murphy’s reappointment for the upcoming year would be “premature.”²⁷

Further, Williams assured Murphy that if the Board of Trustees opposed the renewal of his contract that he would be granted due process.²⁸ While the majority of the letter was written professionally and without a semblance of emotional tone, Williams closed the letter by stating:

In all candor, I must advise you that the best information I have is that there will be strong opposition* but until we have some expression of opposition by the Board, we would be forcing an as yet undefined issue by asking for a hearing or by contacting the organizations mentioned in your letter.²⁹

It is not clear what happened during the month between Williams vowing to fight for Murphy and his correspondence, but something had changed—Williams' willingness to fight. Williams was experiencing a change in his own identity, as he was no longer a man who was willing to die in the ditch of academic freedom.

Though the chancellor was unable to provide Murphy with anything more than uncertainty, in a sudden turn of events, ways out of the situation began to present themselves to the professor. While Murphy was in Lexington, John Wade, Dean of Vanderbilt Law School and an Ole Miss graduate, called upon Murphy to ask if he was interested in a position at Vanderbilt. Murphy was delighted and immediately scheduled an interview at the law school. Murphy seemed to be a good fit in the space of Vanderbilt. The interview process was smooth, and the law faculty unanimously voted in favor of his appointment. Dean Wade forwarded the recommendation to the president of the university. It seemed as if Murphy's troubles would soon be over, and he was beginning to feel relief.³⁰

Before returning to his visiting appointment, Murphy traveled back to Oxford for spring break. While there, he informed Dean Farley that he had been offered the position at Vanderbilt and intended to accept. So, Farley apprised Chancellor Williams of

* This statement, of course, directly contradicts the statement in the opening of the letter that opposition was "rumor."

Murphy's decision but decided to wait to make the decision public. Though Murphy's options were looking rosy, he was not a man who ignored those against him, and instead of using his break for rest and relaxation, Murphy utilized his time in Oxford to deal head-on with the issue of his reappointment at Ole Miss.

Farley told Murphy that he felt the appointment would be approved by the Board but believed that the vote would be divided.³¹ Murphy also discussed his appointment with Williams. As Murphy was a man of principle, he apologized to the chancellor for the statements he had made in the press, which had resulted in turmoil for Murphy and for the university. Williams told Murphy that he need not apologize for anything he had written or stated publically and that he was a good professor. The chancellor indicated that as long as Murphy wanted to remain at Ole Miss that he would recommend the appointment. Still, the chancellor suggested that both Murphy's and the university's best interests would be served if the professor accepted a position elsewhere. Williams seemed to believe that the university would not be able to sustain a war for the preservation of a single person. The power of opposing forces was too great and he attributed his opinion to the "extremist segregationist group in the state and the power they wielded."³²

During the conversation, Chancellor Williams shared with Murphy that he was in a difficult position "in trying to preserve the University and educational values in the face of existing political pressures in Mississippi."³³ He was also concerned that Murphy would attempt to draw on media attention. While Murphy did not want any additional publicity, both men agreed that if the Board of Trustees did not renew his contract that he would have no choice but to make the attack public. Chancellor Williams knew that in

that instance, the situation would warrant a lawsuit, but Murphy had no desire to file for legal intervention. By that time, he wanted out. The Chancellor also let Murphy know that they were working through the channels of alumni to discuss the issue with members of the Board and confirmed what Farley had already told Murphy, that the Board would be split in its decision but the general impression was that Murphy's contract would be renewed.

Farley's decision to postpone the announcement of Murphy's position at Vanderbilt proved to be prophetic. Regrettably, the Vanderbilt dean never contacted Murphy again. An old friend of Murphy's and a faculty member at Vanderbilt, called the law professor to tell him that Vanderbilt's chancellor, Harvie Branscomb, had heard about the controversies surrounding Murphy at Ole Miss. Not wanting to invite controversy into his own university, Branscomb refused to hire Bill Murphy.* It was then that a reality began to set in that Murphy had not wanted to face. He would have difficulty securing employment, especially in the South.³⁴ He did not fit into the space of Mississippi because he was an outsider, but he did not fit elsewhere because he was outspoken.

The blow to Murphy was followed almost immediately with another opportunity, as Emory University School of Law was seeking a new dean. Murphy interviewed for the appointment, and as with Vanderbilt, the interview process at Emory went well. Murphy's hopes of securing permanent employment were quickly shot down, as the chair

* Intriguingly, President Branscomb was relieved of his duties at Vanderbilt a short time later. Like Murphy, Branscomb was too controversial regarding race issues for the Tennessee school. Murphy, Interview.

of the search committee contacted Murphy to let him know that the president of the university, Sidney Walter Martin, too had learned that Murphy was controversial, and like Branscomb, President Martin refused to hire him.³⁵ Murphy's identity doomed him to return to a place that did not want him.

Then, the Chancellor prepared the budgets for the summer term of 1961 as well as the 1961-62 academic year for submission to the Board for approval. He included Murphy in both budgets but knew that a case would have to be made in defense of the renewal of Murphy's contract. So, the chancellor prepared three points in support of Murphy. The first appealed to professor's credentials, as Murphy was a good professor and was well liked and respected by his colleagues and students. Second, the Chancellor argued that it would be unfair to disadvantage Murphy economically by waiting so late in the year to decide to not renew his contract, as gaining employment by that point in the year would have been difficult.* Third, taking such actions against Murphy would put the law school and the university at jeopardy with accrediting agencies. Though the Chancellor had already promised Murphy that he would be afforded due process should any issue arise with non-renewal of his contract, Williams knew that the Board needed a nudge in that direction. So, he also urged that no adverse actions be taken against Murphy without providing Murphy with appropriate due process.³⁶

After the May 1961 meeting of the Board of Trustees, Murphy discussed his return in a telephone conversation with Provost Haywood. During the conversation, Haywood told Murphy that he had been included in both the budgets for the 1961

* At the time, no policies existed that required the university to provide a faculty member with advanced notice of non-reappointment.

summer term and the 1961-62 academic year, but the Board voted to postpone the vote for Murphy's contract for the academic year. Worse, the Board approved his contract for the summer term but stipulated that he not be allowed to teach any courses. Haywood refused to speak on behalf of the Board but shared his personal thoughts on the subject stating that, "the simple fact is that the renewal of your appointment is opposed by certain members of the Board, and the actions were taken to avoid at this time a bitter controversy from which the University could be expected to suffer damage." It was also the belief of the Provost that if questioned, the Board would justify the action as being "in the best interests of the University,"³⁷ suggesting that the best interests of the university were not truly an issue for the Board. This communication also indicated that the defenses of the university administration in fighting the Board were weakening.

Unclear whether he had a job to which to return but with no other options, Murphy arrived back on campus on Monday, June 5, and two days later, he and Dean Farley met with Chancellor Williams and Provost Haywood to discuss the Board's actions from the previous month. Williams told Murphy that going into the meeting, six of the seven trustees were in favor of his firing and also that members of the Board had been instructed* that if they did not get rid of Murphy, the legislature would "take care"³⁸ of the situation in the next legislative session. However, the Board members wanted to maintain the appearance of unification in their vote. Though they were unable to come to any compromise in deciding upon the 1961-62 contract, the Board managed to compromise regarding the summer contract, but that compromise meant removing Murphy from the very space he loved the most—the classroom.³⁹

* It is not clear from whom the instruction came.

Murphy asked for a description of the specific objections to his continued employment. Williams explained that he knew of nothing specific but he was aware that a “small group of extremist segregationists . . . were spearheading the drive” against Murphy. Williams believed the members of the Board who were against Murphy to be “completely irrational,” but because they were in places “of power and influence,” Williams felt powerless against them. The chancellor also advised Murphy against reporting the incident to accrediting agencies. He felt it best that Murphy not to appear to the Board that he was “fighting” them because he was concerned that the Board would retaliate against Murphy and “cut [him] off without a penny.”⁴⁰

The Provost added that the information he had received indicated that the main objection to the professor was that he did not take an “anti-Supreme Court” position in his constitutional law course. Things were not only looking glib for Bill Murphy but for the law school as well. Haywood told the group that he also had heard that three members of the Board actually wanted the law school to lose accreditation because they wanted to see the state’s law school moved either to Jackson or Hattiesburg.⁴¹ So, the threat of the loss of accreditation did not work to Murphy’s advantage, as it was not received by the Board in the way Williams had hoped.

Just when things appeared that they would not get better for Bill Murphy, he received a rather serendipitous call from Dean Joe Covington of the law school at the University of Missouri. It turned out that the dean was in need of a last-minute visiting professor for the 1961-62 academic year. As it is difficult to fill any post at the last minute and aware of Murphy’s situation at Ole Miss, the dean knew that Murphy would be interested in the position. So, Murphy discussed taking a leave of absence for the year

with Bob Farley. Though it seemed like a plausible, if but temporary solution, Farley, anticipated that requesting a leave of absence would only mean more trouble for Murphy. The Board had already tabled the discussion of Murphy's contract until the June board meeting, and as a leave of absence would imply the right to return to work, it was Farley's opinion that the Board would not approve the leave, forcing upon Murphy a single option—to quit.⁴²

Both the Chancellor and Farley already had told Murphy that they believed that if his contract were approved during the June meeting of the Board, it would be without teaching duties and only for the fall 1962 semester. Though Murphy had faced uncertainty regarding Board actions in the past, this time, he felt things were different. During his previous run-ins with the Board, its members caved to the outcry from Murphy's supporters. This time, the objections to the professor were the same, but Murphy knew one thing had changed—"the composition of the Board,"⁴³ which Governor Ross Barnett had filled with appointees who, according to Murphy, were all members of the Citizens' Council. The change in composition of the Board allowed for the reinforcement of ideologies regarding politics, which the actions of the Board members indicate presupposed ideals of education or academic freedom.

Quitting was not an option for Bill Murphy, but Farley also had advised Murphy to not be in the state during the 1962 legislative session. The dean felt that it would be best for both Murphy and the law school if he were not there, as his mere presence served as a source of agitation. So, he formally requested a leave of absence for the 1961-62 school year. He had accepted the visiting position at the University of Missouri, contingent upon the approval of his leave. Uncertain as to whether the Board of Trustees

would approve his appointment for the Spring 1962 term and concerned with needing to care for his family, Murphy stated that he felt the need to accept the position in order to fulfill the obligation to his family. In the request, Murphy also explicitly stated that the request was for a leave of absence *only* and was not to be interpreted as a letter of resignation.⁴⁴

Also that day, Provost Haywood appealed to Chancellor Williams in support of the renewal of Murphy's contract. It turned out that Haywood had been conducting an investigation of his own. He felt that as the chief academic officer of the university, it was his duty to make a case in favor of Murphy's continued employment, and in anticipation of scrutiny of the university and the law school by accrediting agencies, Haywood wanted to have documented all actions made by Murphy and the administration.

Haywood had begun his investigation by reviewing the grounds for dismissal of a faculty member, which, at the time, were "malfeasance, inefficiency, or contumacious conduct."⁴⁵ The Provost then reviewed Murphy's case and interviewed each member of the law faculty individually. Haywood determined not only did the state not have grounds for Murphy's dismissal but also that Murphy was a true asset to the place of the law school as an institution for legal education. Bill Murphy was heavily credentialed, was a highly regarded teacher and was active in research and publication. Further, Murphy's colleagues found him to be "objective and orthodox in the classroom."⁴⁶ He was not at all the rogue and dangerous man he had been portrayed to be by his opponents and the media.

Haywood had also interviewed Murphy's former students who reiterated Murphy's effectiveness in the classroom. The Ole Miss Law graduates confirmed that Murphy did not "attempt to indoctrinate" them. They found Murphy to be stimulating and

also were encouraged by the professor to think critically about the law and to form their own opinions. Additionally, the Provost noted that Murphy was not affiliated with any subversive organizations. He also addressed Murphy's membership in the ACLU.

Haywood found during his investigation a point that had previously never been mentioned. Murphy joined the organization only "after being informed by the appropriate University administrative officer that this organization was not listed as subversive by the Attorney General of the United States." This combined with Murphy's membership in the American Legion and with his prior military service, Haywood reasoned, was evidence of Murphy's loyalty to the United States.⁴⁷

As far as the professor's status as an "integrationist," Haywood, as Murphy had done before, reasoned that the public comments regarding the *Brown* decision were concerned only with the "legal and historical background" of the court decision. Murphy had never produced any commentary regarding segregation "as a social institution."⁴⁸ Haywood also suggested that the Board's objection to Murphy's reappointment stemmed from the so-called, "Hooker-White" charges. Like Murphy, Haywood recognized that since the case against the university had been resolved, the composition of the Board had changed, and it was his recommendation that the newly seated Board members review the files and facts of the case, as Murphy and all others charged by Hooker and White had been cleared. While he provided no details, Haywood also commented that a "politically enterprising" former student (unnamed) of Murphy's might have been involved in the situation but that the student was not disgruntled with Murphy. Rather, the student was redirecting contempt with the presence of liberal ideals in the South to Murphy.⁴⁹

In spite of the fact that the Chancellor had already advised against reporting the current situation to accrediting agencies, it was Haywood's recommendation that the university proceed with making official contact with them immediately and report the Board's actions against Murphy. Haywood knew that the actions of the Board would raise "the presumption of political intervention in the administration of a University." He obviously knew that recent events would not remain contained and felt that it would be best if the appropriate agencies received the news directly from the university administration rather than from an outside source. He also noted that under the SACS accrediting standards, the actions of the Board of Trustees jeopardized the accreditation of Ole Miss in addition to all institutions that fell under the purview of the Board, as had happened in the past. Haywood made it clear that he had recommended the reappointment of Murphy due to his fine credentials and not out of fear of losing accreditation, but he knew that losing accreditation was inevitable.

The Provost's approval of Murphy was countered very strongly the next month from state senators. Senator G.E. Williams wrote to the chancellor to express his opposition to the consideration of Murphy's contract. The senator stated that he and his constituents in DeSoto County found Murphy to be controversial and that having him on the faculty was not in the best interest of the institution.⁵⁰ He also expressed that he hoped that the chancellor and Dean Farley would use their influence to "preserve the great Southern tradition and way of life, and keep the University of Mississippi clear of all controversy and undue criticism."⁵¹

Senator George M. Yarbrough expressed his disapproval of the renewal of Murphy's contract for the upcoming academic year to both the chancellor and to E.R.

Jobe, Executive Secretary of the Board. Yarbrough, however, was less concerned with the status of Ole Miss and more concerned with the status of segregation in the state. He cited the fact that Murphy was a member of the ACLU, “which advocates integration,”⁵² and questioned how segregation would persist in Mississippi with people such as Murphy teaching in the state’s schools.⁵³ Jobe responded to the senator in an attempt to temper the senator’s disgruntlement by resolving conflicting ideologies through redirection. He promised the senator that his letter would be read at the next meeting of the Board, though he refrained from any mention of segregation, choosing instead to focus on “the best interest of the University of Mississippi and the State Mississippi.” At the same time, Jobe assured the senator that the Board and the chancellor had “exactly the same motives, mainly to promote the University and the State.”⁵⁴

The same month, Senator J. Edger Lee, wrote to Chancellor Williams in strong opposition to Murphy’s return.⁵⁵ Lee wrote, “I do not believe the good people of this State are going to allow their tax dollars to be spent paying the salaries of people who are unfriendly to our way of life, and whose purpose is to destroy our States Rights, and bring about destruction of everything that we prize highest. After all, I am of the opinion that there is something the Legislature can do about this matter.”⁵⁶ Though he introduced the threat of legislative interference, Lee expressed that he did not want to resort to legislative action against Murphy. Instead, he wished for the chancellor to be a hit-man on behalf of the Legislature.

Although the law faculty had already expressed support on campus for Murphy, they decided to bypass the chancellor as their arbitrator with the Board and make a direct appeal on behalf of their colleague. So, on June 26, 1961, the faculty of the law school

unanimously adopted a request to the Board of Trustees to rescind the conditions of Murphy's summer contract. In the statement, the faculty found the terms of Murphy's summer employment to be "deplorable" due to his "learning, ability, and high professional reputation,"⁵⁷ including the fact that he had been a Sterling Fellow at Yale University School of Law and had also been awarded a Doctor of Juridical Science by the prestigious law school. They also believed that not allowing Murphy to teach in the absence of any complaints or charges filed against Murphy would be viewed as an act of "political interference with the Law School and the University"⁵⁸ by accrediting agencies and would place law school's accreditation in jeopardy. It was the position of the faculty that, "the accrediting agencies have always been alert to a danger of political domination of state-operated law schools. This is particularly true where there is a history of political interference."⁵⁹

The resolution recalled the prior incidence when the law school lost its accreditation, which not only resulted in a severe reduction in student enrollment in the law school but also caused "lasting damage to the reputation and morale of the Law School,"⁶⁰ an academic space of legal education for which the Board seemed to have no regard. According to the faculty resolution, the damage to the law school's reputation had rebounded significantly since the end of World War II, evidenced by the fact that out-of-state student enrollment had increased significantly; students were accepted for graduate study in other law programs, often with scholarships; and many students had been commissioned to judge-advocate positions in the armed forces. All of these, the faculty reasoned, would be in jeopardy if the school lost accreditation again. They also pointed out that regaining accreditation is a difficult process, and if lost by the law school, the

university itself would also be in jeopardy of losing accreditation. The resolution closed with a firm position regarding academic freedom holding that “a university worth the name cannot exist except on the basis of complete freedom in the search for truth. This necessity is fundamental.”⁶¹

Like the faculty, Bob Farley, seemed to understand the predicament in which Murphy was placed, and he too decided the time had come to speak out on Murphy’s behalf, rather than working through the chancellor’s office. So, Farley traveled to Jackson to appeal privately to Governor Ross Barnett. While in Jackson, he ran into an old friend* who was also good friends with the Governor. Farley explained the situation to the mutual friend who then asked to help because, while the friend admired Barnett and considered the Governor to be the best of friends, he believed that “when you’re dealing with Ross on something this serious, there is one thing you have to remember. He is stupid.”⁶²

So, the two met with Barnett and reasoned with him that if Murphy was not granted leave or allowed to return to the law school upon the completion of his leave of absence, the law school itself would be at risk of losing accreditation. The Governor asked Farley if anyone knew about Murphy’s situation. He seemed to be ignorant to the fact that Murphy’s story had left campus, or at the very least, the state. Bob Farley told the Governor that people, in fact, did know, and if anyone did not know about the way Murphy had been treated, he would tell them himself.⁶³ Fortunately, Barnett was not

* While Farley relayed the details of his trip to Jackson to Murphy, there is no indication that he ever revealed the name of his “old friend.”

interested in bad press for the state. So, the two men were able to get through to Barnett who agreed to direct the Board to approve Murphy's leave.

Then, at the July 7, 1961 meeting of the Board of Trustees, an unpaid leave of absence was granted to Murphy to be taken from September 1, 1961 to June 3, 1962 in order to accept the visiting professorship at the University of Missouri.⁶⁴ The official reasoning for approving the leave was to be in "accord with the general policy of the University of doing everything that we reasonably can to enable our faculty to improve themselves in their fields of specialization."⁶⁵ Once the leave of absence was granted, Farley immediately contacted the AAUP and reported the university for infringements upon Murphy's right to academic freedom.⁶⁶

The Calvary Arrives

That fall, George Neff Stevens, Chairman of the Committee on Academic Freedom and Tenure of the AALS, wrote to Farley regarding Murphy's difficulties at the law school. Stevens had heard that Murphy had not been allowed to teach the previous summer and wanted to distinguish between fact and rumor. He was careful to make clear that the source of the information was not Murphy and was surprised that Murphy himself had not contacted the AALS for assistance. He surmised that the events stemmed from the earlier allegations against Murphy for his classroom teachings and made it clear that the position of the AALS was that it was a "clear case of serious interference with both academic freedom and tenure."⁶⁷

While on leave of absence, Murphy apparently realized that a tenure system had been put into place at Ole Miss and wrote to Provost Haywood to inquire as to why he was the only faculty member at Ole Miss Law who had not received a written notification

of tenure status. The provost was away at the time, to return later in the month. However, on November 16, more than a month after his first correspondence with the provost, Murphy had not received a response and wrote to him again. While in Missouri, Murphy also wrote to Chancellor Williams to inquire whether he had a right of return and an equivalence to tenure.⁶⁸ The chancellor responded to Murphy that he did not have any form of tenure and did not have a position to which to return. Williams told Murphy that his leave of absence was, “terminal leave.”⁶⁹ It seems that Murphy’s distance from the law school created the space the university administration had needed to eliminate the professor’s place at the university.

By this point, Bob Farley needed a reprieve of his own from the stress he endured as dean of the law school. During the fall semester, he requested a leave of absence from his duties in the law school in order to accept a visiting professorship at the University of Florida School of Law for the following semester.⁷⁰ Chancellor Williams forwarded a recommendation to the Board of Trustees that the absence, to take place from February 1 to May 31, 1962, be granted. The Board complied, and Williams notified Farley that the request had been approved in accordance with the university’s “policy to do everything we can to enable our faculty to do everything they can in their chosen fields.”⁷¹

While it was never clear who contacted the AALS, at the November 7, 1961 meeting of the campus chapter of the AAUP, Russell Barrett,* a political science professor and president of the chapter, informed the chapter that he had been in discussions with the national office of the AAUP and that he had sent all available files

* Russell Barrett faced his own challenges with the university. He had also been named in the Hooker-White charges.

regarding Murphy to a contact there.⁷² After an initial review, the AAUP determined that two violations of academic freedom had been committed against Murphy. The first involved the fact that Murphy had not been allowed to teach during the summer term of 1961, even though his contract had been approved. The second violation was that the university did not make an offer in writing, “with precise terms and conditions”⁷³ to Murphy. Barrett also reported to the chapter that the Board of Trustees had taken the position “that they will not rehire him.”⁷⁴

During the October 1961 meeting of the Board of Trustees, a subcommittee was formed to “consider matters concerning the school of law,”⁷⁵ though no objectives or goals were mentioned regarding the consideration. The subcommittee consisted of: M.M. Roberts, Talley D. Riddell, R.B. Smith, II, and Ira L. Morgan. The subcommittee met in December on the campus of Ole Miss, but the details of the meeting do not appear to have been recorded.⁷⁶ The subcommittee called before them Dean Farley and Chancellor Williams for questioning. According to Murphy, Farley told him that the meeting was “stormy,”⁷⁷ but he was able to convince the group to recommend Murphy’s appointment for the summer 1962 term to the full Board.

After lengthy delay, Chancellor Williams finally responded to Murphy’s previous letters both to the chancellor and to Provost Haywood.* The chancellor told Murphy that

* After Haywood’s initial investigation, which proved to be supportive of Murphy, he fell silent. It is not known whether Haywood fell under outside pressures or if his initial concern was actually for the loss of accreditation, rather than for Murphy.

the university did have a tenure policy, which was established in 1950^{*} and stated that a faculty member may be awarded tenure after three years of service and with endorsement by the department chair or dean, the provost, and with final approval by the chancellor. It turns out that earlier that year, Dean Farley had recommended Murphy for tenure, but according to Williams, Provost Haywood had not endorsed the recommendation.

Williams added for clarification that, “even if Doctor Haywood should decide to add his endorsement at this time and forward the recommendation to me, I would not approve it. In brief, your appointment has not been and will not be established on a tenure basis.”⁷⁸

Murphy responded the next week, to point out that the Chancellor had failed to provide a reason as to why he would not be given tenure. The tenure process, Murphy reasoned, was a simple one, and he was “unquestionably entitled” to tenure, according to the newly scripted statement on tenure in the faculty handbook. Murphy also pointed out that the Chancellor’s position on Murphy’s assurance of continued employment, which tenure would provide, was in “complete variance”⁷⁹ to what he had stated in a meeting with the earlier that year.

The same month, David H. Vernon, Chairman of the AALS Committee on Academic Freedom and Tenure invited Farley to meet with the committee to provide them with details regarding Murphy’s situation at Ole Miss. The committee wanted to

^{*} There is no indication that a tenure policy had been set in 1950, but procedures were established for tenure that granted tenure to all professors who had been employed prior to 1950 and had served at least two years. In establishing a tenure policy earlier that year, for those hired after 1950, the provost directed the department chairs and deans to make recommendations for tenure after three years of satisfactory service.

hold a closed meeting in order to hear from the dean before presenting the situation to the full AALS body at the national convention. During the committee's review of Murphy's case, they found that his academic freedom and also his rights to tenure had been obviated. They also came to the conclusion that the university's administration and the Board of Trustees had acted persistently to violate Murphy's rights. Further, the committee found that Murphy was denied tenure by virtue of the fact that Chancellor Williams failed to notify Murphy of tenure status in writing and also by verbally denying that Murphy had a right to tenure.

They did, however, come to the conclusion that since the summer of 1961, when Murphy had been denied the right to teach, the Board of Trustees had "re-dedicated" itself to protect the integrity of the institution by "declaring independence."* Despite this, the committee resolved that, "the free exchange of ideas at the Law School of the University of Mississippi cannot remain unaffected by the intellectual and cultural atmosphere of the University as a whole."⁸⁰ Further, they determined that suspension of the law program by AALS might become necessary if a "suitable educational atmosphere is not quickly created and is not then continued."⁸¹

Because the committee identified that improvements in the climate of the law school and the university had been accomplished, Farley convinced them to hold off on making a report to the full body until the Board met their regular session in January 1962. Deans Ribble and Keeton agreed but made plans to travel to Mississippi to engage in informal discussions with university administrators and with members of the Board of

* From what, is not clear.

Trustees.⁸² The educational space at Ole Miss Law was in flux, but the AALS was willing to give the law school time before passing judgment.

The AALS Committee contacted Farley on January 2, 1962 to make plans for their arrival at Ole Miss. Chancellor Williams informed M.M. Roberts of the visit. Roberts wanted to meet with Williams before the AALS arrived on campus, likely to unify in their defense, and he was perturbed by the interference of the AALS. In an expression of denial of any wrong-doing, Roberts wrote that, “the authorities outside of the State of Mississippi have been misled” and that he could not “believe but that Mr. Murphy has shared in the movement to do violence to the University of Mississippi School of Law. He surely will do harm by himself to require a hearing which will not be advantageous to him under the facts.”⁸³

On another front, during the January meeting of the campus chapter of the AAUP, President Barrett informed members that Murphy had received a notice from Chancellor Williams “which suggests in a stern tone that the Provost has not and will not receive authorization for his tenure,”⁸⁴ reiterating that Murphy had been denied tenure without reason. Apparently, the Murphy case had drawn much attention, as Barrett also reported that representatives of the Legal Education Committee of the American Bar Association and the deans of the Law Schools of Texas and Virginia Universities were to be coming to campus to investigate on behalf of the national office of the AAUP and the AALS, and if that had not drawn enough attention to the law school, C. Van Woodward was to be on campus to investigate “problems of academic freedom in the South.”⁸⁵

On February 1, 1962, the Deans Ribble and Keaton of the AALS and AAUP, met in Jackson with the members of the Board and then separately with Farley and Williams.

They strongly reinforced their belief that Murphy's rights had been violated and that the law school and the university had put itself in danger of either censure or suspension from both accrediting bodies. They recommended to the Board that Murphy's request for leave be given priority on the Board's agenda, and the Board of Trustees agreed and also promised to take no further action against Murphy without granting him the right to due process.⁸⁶

Farley was happy to have them speak on behalf of the law school, as he felt that when he went before the Board to discuss the possibility of censure or expulsion from accrediting agencies, that Board members viewed him as crying "wolf" and "using the accrediting agencies as a club to force the Board to do something that other pressures would have them refrain from doing."⁸⁷ Farley tried to maintain hope, but at the time, it was his belief that because the legislature was in session, the Board would not take any action regarding the 1962-63 budget until after the approval of the biennial appropriation to the state's institutions, and that would be long after the AAUP and AALS representatives left the state.⁸⁸

As the Board remained inactive, the state legislature fired a strong blow that was probably meant for Murphy but hit all professors of Mississippi's institutions. During the regular legislative session of 1962, the state senate introduced rider legislation, Senate Bill No. 1612, which prohibited the use of state funds to pay the salary of any professor who was a member of the Communist Party, the NAACP, or the ACLU.⁸⁹ The bill was to go into effect on July 1, and those in violation were to be heavily punished by a fine up to \$2500 per conviction. This bill was packaged with the appropriation bill for the

Institutions of Higher Learning. The bill, of course, passed, as appropriations would be approved along with the rider or not approved at all.

Farley left the state to attend to his duties at Florida State, and though away, he was very much in the minds of Mississippians. The Citizens' Council provided citizens with pre-printed post cards addressed to the Board of Trustees and to Chancellor Williams with the message:

As a taxpayer supporting state schools and as a loyal Mississippian promoting Americanism, I respectfully demand that Dean Farley, Jim Silver, Alton Bryant, and Barrett and all other integrationists be removed immediately from the pay roll of Ole Miss.⁹⁰

By this point, higher education was under a full-blown attack, especially at Ole Miss, and there would no going back. The space of interaction between education and politics in the state noticeably had been displaced from its previous position, and only time would tell the course of co-evolution the two would take.

Murphy Requests Due Process

Just when the final blow by the legislature seemed as if it would cripple Bill Murphy, he was offered a permanent position on the law faculty at the University of Missouri. So, on March 5, 1962, Murphy tendered a letter of resignation directly to Dean Farley, who was enjoying his own leave of absence in Florida.⁹¹ Murphy requested his resignation become effective on September 1 so that he may fulfill his duty to the Law School for the summer term. Murphy offered the simplest of resignations, consisting only of two sentences and offering nothing more than resignation itself. Murphy did not

elaborate. He did not explain his resignation. For Murphy, the battle of Oxford would soon be over and he would travel to a new place to begin a new life.

Farley then transmitted the letter on to Chancellor Williams, Provost Haywood, and the acting law school dean, John Fox, Jr.⁹² Farley thought it was important to remember that, while Murphy's resignation would relieve the Board of Trustees of the pressure to reappoint him, the university was not relieved of being under the microscope of accreditation bodies. Farley also stated that Murphy had been made an offer of appointment for the summer term of 1962. While he had dissuaded Murphy from accepting the position, Farley promised Murphy to continue to advocate for the appointment, and he did. In support of Murphy's appointment for the 1962 summer term, the dean reasoned, "we should be ruined without giving the Board a chance to make an affirmative gesture of amends."⁹³ He then subtly suggested that such amends would be viewed favorably by accrediting bodies, thus preventing suspension or expulsion from the organizations.

Murphy's summer appointment was approved, and he accepted the position. He returned to Ole Miss to teach that summer and to handle his affairs in Oxford.⁹⁴ His wife and children had remained in Oxford during his recent visiting appointment, but the time had come to sell the home they loved so dearly and make a permanent move to Missouri. The summer was not easy for him. Though the law faculty received Murphy back, other faculty members on campus treated him coldly, making his summer on campus difficult.⁹⁵ Before Murphy left Ole Miss, the law faculty hosted a party in his honor. During the party, Bob Farley quietly pulled Murphy aside to present him with a gift—the

petition the law students had signed in his support of more than two years before.⁹⁶ He had not used it, but he had neither destroyed it.

Integration and Investigation

As things seem to calm in the law school, elsewhere on campus, unrest had turned to upheaval. James Meredith integrated the campus of the University of Mississippi. Ironically, Governor Barnett worked quietly with federal officials to come to an agreement about an appropriate scenario for Meredith's entrance into Ole Miss. It was not until the weekend before Meredith was to enter the university that Barnett called President John F. Kennedy to renege the deal, leading to contempt charges.*

Governor Barnett took over as the registrar at the Ole Miss in order to bar James Meredith from entrance into the school. However, he coordinated with US Attorney General Robert Kennedy to have Meredith peacefully admitted. The Kennedys wanted assurance that no violence would take place during Meredith's entrance to Ole Miss, and Barnett staged the scene for Kennedy stating in a telephone conversation, "there won't be violence. . . . No one will be armed. I will be in the front line and when Meredith presents himself, I'll do like I did before. I will read a proclamation denying him entrance. I will tell the people of Mississippi now that I want peace and we must have no violence. . . . When you draw the guns, I will step aside and you will walk in." Even

* Crespino argues that Barnett's duplicitous nature led to increasing violence in the state, including violence from within the Citizens' Council. In response, Mississippians in positions of power would come to have to adopt Coleman's practical segregationist tactics in order to continue the anti-integration cause in the state. See *In Search of Another Country*, 18-48.

though Kennedy agreed to the façade, he expressed that it was silly and had gone far beyond the stage of politics. For Barnett, however, “it *was* politics.”⁹⁷

While the law school had no direct role or function in the Meredith crisis, Dean Farley, who had returned to campus from Florida, offered an office space to Nick Katzenback of the US Justice Department. Katzenback was a Yale law graduate who had been sent to Ole Miss by President Kennedy to run interference in the Meredith case. This action enraged members of the Citizens’ Council. According to Murphy, Bob Farley had already marked himself by defending the US Supreme Court’s decisions in the *Brown* case, but allowing Katzenback into the law offices at Ole Miss, would lead to the demise of Robert J. Farley.⁹⁸

After the Meredith crisis, the university chapter of the AAUP passed a resolution to denounce the violence that had taken place on campus. As the media in the state had already tried the marshals for the two deaths that occurred that day, the resolution affirmed that the marshals involved in the incident were not to blame.⁹⁹ This resolution once again brought members of the faculty, including law professors, under the fire of the Citizen’s Council. William Patterson, who was the executive secretary of the state installation of the Citizen’s Council, distributed a list of the names of the professors who voted in favor of the resolution who then proceeded to receive harassing phone calls in their homes during late hours.¹⁰⁰

In response to questions surrounding Murphy’s tenure that had been brought to light during the AALS-AAUP investigation of Ole Miss Law, the Board of Trustees passed an employment and tenure policy for all public institutions in Mississippi.¹⁰¹ In the policy, the Board empowered itself to contract heads of the institutions of the state as

well as deans, professors, and other instructional faculty and administrative staff. The policy established that instructors were to be employed on yearly renewable contracts. Term contracts were limited to four years, and the Board reserved the right, in accordance with state law, to terminate a contract “at any time for malfeasance, inefficiency, or contumacious conduct, but never for political reasons.”¹⁰² Further, should the Board reject a nomination that results in termination, the policy allowed for a “full and appropriate hearing . . . if requested by the faculty member terminated.”¹⁰³

Regarding tenure, the policy called for each institution to form its own tenure committees. Tenure was to be granted after a probationary period of between three and five years, left up to the individual institutions to determine, at which time a professor may then expect continued employment, regardless of rank. Once tenure was achieved and awarded, termination could only be made upon grounds of “financial exigencies” or “for cause.”¹⁰⁴ Should termination be requested by an executive of an institution, it could only be done so with accompanying documentation from the tenure committee, and a hearing was to be granted to an accused faculty member, if requested. Also, unless a teacher was found guilty of moral turpitude, the faculty member must be granted a one-year terminal employment contract. However, the policy stipulated that, “at the discretion of the institution and the Board of Trustees the teacher’s salary may be paid, and he may be relieved of teaching duties.”¹⁰⁵ The policy grandfathered any faculty member already on continuous appointment at the time it was passed.

By the time the 1962 meeting of the AALS came around, both the Meredith crisis and William Patrick Murphy had become serious points for consideration. All events that had unfolded regarding Murphy, including those after the AALS visited Mississippi,

were presented to the organization.¹⁰⁶ The AALS came to the conclusion that the events surrounding the admission of James Meredith had affected the law program directly. Regarding Murphy, specifically, the organization found that Murphy's rights to academic freedom and tenure had been violated. The AALS decided to not suspend the law school but instead notified Chancellor Williams that the law school would be suspended should any other instance of violation of a professor's rights take place.

Chancellor Williams, the Board of Trustees, and the Council of Academic Deans received and reviewed a full report of the AALS investigation and findings. Williams defended the university in the case of Meredith, stating officials of the university had been found free of contempt by the Fifth Circuit Court and that the AALS had failed "to lodge the blame in the proper place,"¹⁰⁷ though the Chancellor failed to elaborate as to where he believed the blame belonged. Williams suggested that the AALS did not have at its disposal a complete understanding of the Meredith case and noted that only with knowledge and understanding could a professional or accrediting body be of assistance to a university.¹⁰⁸

Regarding the case of Murphy, Chancellor Williams denied that the university administration had violated the professor's rights.¹⁰⁹ He stated that Haywood, Bryant, and he had fought in favor of Murphy's reappointments over a four-year period. Williams also stated emphatically that the AALS's assessment of the Murphy situation had been made in ignorance of the tenure policies at the university. According to Williams, Murphy had first applied for tenure in the spring of 1961. The provost had chosen to not endorse Murphy based upon "a thorough review, which included interviews with

Professor Murphy's colleagues in the School of Law and with some former students.”*

Despite the fact that the chancellor wrote, in part, to “educate” the accrediting body regarding Murphy's case, he once again failed to elaborate and did not disclose specifics of the recommendation to deny tenure to Murphy. The chancellor went on to state that Murphy had been invited to participate in a discussion with him and the provost but that Murphy failed to do so. After dedicating a considerable amount of space reinforcing the notion that Murphy was undeserving of tenure, the chancellor then stated that Murphy's reappointment was not contingent upon his tenure status, illustrated by fact that recommendations were made to the Board of Trustees to reappoint the professor for the summer of 1961, fall of 1961, and the spring of 1962. Of course, Williams entire defense of administrative process and decision-making ignored that Haywood's investigation of Murphy during the Hooker-White charges painted Murphy to be a prime candidate for tenure.

The same month, the chancellor released to the press a request to all faculty and staff members and the students of Ole Miss that each refrain from making public statements to any media outlets. The chancellor did not want further “disorder” that would “impair the effectiveness of the educational program at”¹¹⁰ the university, and blocking any suggestion of infringements upon academic freedom, Williams used the law

* This statement is not consistent with the findings of the provost during his investigation into Murphy, which he relayed to the chancellor in support of the continuation of Murphy's contract, which was conducted the same year of the tenure application in question. Also, there is no evidence of a tenure application for Murphy, nor is there evidence of official denial of tenure.

to his advantage. Taking the “clear and present danger” opinion of US Supreme Court Justice Oliver Wendell Holmes, Jr. in *Schenck v. United States* somewhat out of context, Williams justified that his demand was not an infringement on speech but an attempt to maintain order on campus.

Williams may have been correct in regard to danger, but the danger in which his edict placed the place of academic freedom at Ole Miss angered many, especially members of the faculty. Also, they were angered by the procedure the chancellor used in his dissemination of his decision. First, members of the faculty were upset that the chancellor chose to group faculty, staff, and students together, rather to address them as individual entities.¹¹¹ Second, they were especially angered by the fact that the chancellor had made his announcement through the press, rather than holding campus meetings to disseminate the order. Third, the chancellor provided no guidelines regarding what types of public statements would be disruptive. Members of the campus chapter of the AAUP discussed their concerns with Williams. He assured them that he was not restricting all speech, but they were not convinced. As a result, Russell Barrett contacted the AAUP to report the incident.

A Dean Departs

The same month, the 1938 graduating class assembled on campus for its 25th anniversary. During the assembly, the class unanimously adopted a resolution in support of the administration of the university and the law school. The resolution did not specifically mention Farley, but when Joe McFarland, the chair of the assembly sent the resolution to Williams, he indicated that the class would appreciate “your consideration of Dean Farley, and assure you that it is the thinking of our class, and . . . a vast majority

of the members of the State Bar Association who are graduates of Ole Miss, that he is doing a good job.”¹¹²

However, there would be no consideration for Farley. A Board policy set the retirement age at 65, and Bob Farley was to reach his age of retirement in December of 1963.¹¹³ Though not policy, it was customary that a dean would remain employed on a year-by-year basis until age seventy, if he were in good health, as Farley was.¹¹⁴ Yet, in the spring of 1963, Chancellor Williams told Farley that he believed that the Board would not allow continued appointment beyond retirement.¹¹⁵ Not ready to retire and believing that it was easier to obtain employment while still employed, Farley told the chancellor that he would begin to search for a new position.¹¹⁶

Concerned with his own economic stability as well as with allowing controversy in the law school to die,¹¹⁷ Farley turned in a letter of resignation to Chancellor Williams on June 17, 1963. In his letter, Farley stated that “in keeping with the policy and custom,”¹¹⁸ he was to retire at the end of the session of 1963-1964. He also stated that he had been told by many people that there would be opposition to him remaining on the faculty, and he decided that it was in both his best interest and the best interest of the law school that he not remain at Ole Miss. The dean felt that pressuring the Board into allowing him to continue to work for the law school would only cause additional trouble for the law school and the university.¹¹⁹ It was important to Farley “to prevent personal vindictiveness from distorting my affection for this institution.”¹²⁰ Chancellor Williams responded, accepting the resignation “with deep regret,” and wrote to Farley that for him to leave the university was a “great loss.”¹²¹ Three days after Farley submitted his

resignation, the chancellor began the process to form a search committee to identify Farley's successor.

As an era in the law school was coming to an end, in the summer of 1963, Ole Miss Law School integrated. The university admitted its second black student, Cleve McDowell, to pursue a law degree.¹²² McDowell, a native of Drew, Mississippi and a graduate of Jackson State University, applied for admission to the law school. Though the event marked progress for the university and the legal program, it did not come without some strife. The law school faculty had approved McDowell's admission package, but the Board ordered he not be admitted. The US District Court for the Southern District rapidly overturned the Board order, and unlike the admission of James Meredith the previous fall semester, Cleve McDowell entered into Ole Miss Law on June 5, 1963 without further interference. McDowell and Meredith were roommates that semester, Meredith's last term at the university. All seemed well, but McDowell's time at Ole Miss would soon prove to be brief.

Farley was then honored at the 1963 annual meeting of the University of Mississippi alumni association, which was held in conjunction with the convention of the Mississippi Bar Association. In an interesting farewell speech, Farley stated that he had been "subjected to pressures and criticisms by the white Muslims."¹²³ He also let the alumni know that his decision to retire was in his best interest as well as in the best interest of the law school and stated that the pressures he faced "largely grew from voiced opinions as to whether he was teaching according to the Mississippi way of life." He also cited harassment not only of himself but of the faculty as well.

Interestingly, during his speech, he also stated that Medgar Evers had not been refused admission to the law school but that he simply did not complete his application properly. Regarding Cleve McDowell, Farley stated, “I did not select McDowell, nor was I enthusiastic about his entering my school, but in view of the situation, he was entitled to go to a state law school.”¹²⁴ Further, Farley mentioned that he had for years managed to circumvent a rule of the AALS that law schools must admit blacks, but he was unclear as to how or why he did so.

In one of his last acts as dean, Farley made an official request of Chancellor Williams to reinstate Lester Glenn Fant, Jr., who was retiring, for the purpose of naming Fant as a Professor of Law so that he could retire as a Professor of Law Emeritus. Fant had begun his career at Ole Miss Law in 1941 but left from 1942 to 1945 to serve in the US Navy. He returned to Ole Miss in 1945 but left again in 1947 at his father’s request to enter into private practice in his father’s firm in Holly Springs. Because Fant was a devoted teacher and was loyal to the school, he agreed to teach the same course load he had always taught in his full-time position for partial pay. He taught every semester until his retirement in 1963. Farley, felt that while the situation was unusual, Fant deserved emeritus status due to his extraordinary dedication to the law school. The provost did not share Farley’s affection for the retiring professor. He told Farley that because Fant taught only part-time, never achieved a rank above Assistant Professor, and “in no particular way achieved unusual distinction,” he was not worthy of emeritus status.¹²⁵ He also recommended that emeritus status be restricted to a small group, making the distinction, “thus meaningful.”¹²⁶

That fall, Farley was honored with the distinction of Dean Emeritus of the School of Law at a ceremony held in the School of Education auditorium.¹²⁷ Addresses were made by Judge Claude F. Clayton, Federal Judge for the Northern District of Mississippi and by Dr. William R. Forrester, Dean of Cornell University School of Law and a former faculty member at Ole Miss Law. Professor Sylvester J. Hemleben presented a portrait of Farley on behalf of the law school faculty to be hung in the law building. Farley did not finish the 1963-1964 term. According to Murphy, the dean was “chopped off”¹²⁸ at the end of the fall semester. He accepted a permanent teaching position at the University of Florida School of Law, where he taught for five years before retiring.^{*} Upon his retirement, Farley and his wife returned to Oxford, where they resided until their deaths.

Thus, the first part of the progressive era of Ole Miss ended quietly. The place that was Ole Miss Law, with its single black student was different, but the law school was different in more than color. The space of Ole Miss Law too was different. Murphy brought with him to the law school an approach to constitutional law that, while not unique in the larger space of the nation, was unique to Mississippians, and the support of Murphy by his students during his ordeals reveal that Mississippi contained a new breed of lawyer and future politician, and those students could not have been such without a change in identities. Murphy did not challenge directly the ideologies of the students regarding race, but when the approach to the Constitution changed, the students at the law school were changed.

^{*} His tenure in Florida would be interrupted by a visiting appointment in 1970—at Ole Miss Law.

Identity also continued to diverge from the norm during the latter part of the Farley-Murphy years at Ole Miss Law. Even within the legislature, there was an acceptance, not of Murphy's ideals, but that due process took priority over the ideology of the state regarding liberal thought and practice. While still not enough to reveal a massive change in the space of the state, these slow, persistent changes in individual identities had accumulated to a point sufficient to show that there existed a force greater than the capacity of a single man to exert upon the space.

CHAPTER VI

A SAFE CHOICE TO RESTORE ORDER

“He was a quintessential Southern gentleman and yet a strong leader.”

Samuel Marion Davis

A New Dean is Named

As Bob Farley prepared for his move to Florida, Chancellor Williams focused on the search to name Farley’s successor. The composition of the search committee included: Professors Roscoe Cross (chairman), Joel Bunkley, Jr., Arthur Custy, John Fox, Jr., and George Stengel. External members of the committee included: William Barbour, Sidney Carleton, Claude Clayton, and Mississippi Supreme Court Justice Robert Gillespie.¹ The Committee on Nominations and Recommendations for the Deanship of the School of Law met with Chancellor Williams on June 7, 1963.* Williams requested that the committee recommend multiple people to fill the position to be vacated by Farley’s retirement.

Judge Clayton had already spoken to Myres McDougal,[†] and McDougal recommended Joshua M. Morse, III, who was serving on the faculty of Ole Miss Law at the time. Morse had been awarded a Sterling Fellowship at Yale, which he was to complete during the 1963-64 academic year. So, McDougal’s recommendation was for

* Carlton and Custy were absent from the meeting due to schedule conflicts but were contacted by Cross the next day to discuss the committee’s actions.

[†] McDougal was the chairman of the graduate committee at Yale Law School and an alumnus of Ole Miss Law whom had previously worked with Bob Farley to orchestrate the Sterling Fellowship for Bill Murphy.

Morse's appointment to commence after he completed his study at Yale and for John Fox, Jr. to serve as interim dean in Morse's absence.

Josh Morse was a native of Poplarville, Mississippi. He attended Ole Miss for his undergraduate degree, and upon graduation, he entered into the Army. After he left the service, Morse returned to Ole Miss for legal studies. After completing his law degree, Morse returned to Poplarville and entered into practice with his father. According to Morse, he and his father primarily practiced criminal law because "people paid attention to criminal cases and didn't pay much attention to civil cases."² In criminal practice, Morse and his father successfully defended several black clients who had been charged with assault and battery of a police officer while defending themselves during beatings committed by the officers. Morse remembered the cases to be somewhat sensational in Poplarville, but the legal duo never garnered attention outside of the small town for their defense of black clients.

When former Governor Theodore Bilbo, a native of Poplarville left the US Senate, he returned to Poplarville for a time to practice law. Bilbo did not immediately have office space of his own. So, Morse's father allowed Bilbo to share their office space in the local Masonic Lodge. This would later contribute to an interpretation that the Morse family was close to the Bilbo family and that Morse was a safe choice for Ole Miss Law.*

* Many articles were published during the selection process for Morse's decanal appointment claiming that Bilbo and Morse's father were law partners. During a later interview with Morse, he made the point, that, in fact, they never shared a practice. However, Morse's father did draw contracts for members of the Bilbo family. Morse, Interview.

Morse had joined the Ole Miss Law faculty in the fall of 1962. He initially had declined the position, but Dean Farley appealed to Morse because there was no one to fill the position, and the semester was about to begin. Also, Farley offered to write recommendations for Morse's application for the Sterling Fellowship at Yale upon the condition that he complete his first year on the faculty. He also offered to introduce Morse to Myres McDougal.*

Before accepting the position, Morse discussed the appointment with M.M. Roberts, who was a friend of Morse's father. Roberts told Morse that he would "oppose everything"³ that Morse wanted to do in the law school but that he would "also oppose anybody firing" Morse because Roberts believed that Josh Morse would make decisions in the best interest of the law school.⁴ So, Morse accepted the position and immediately moved to Oxford. During his first semester on campus, James Meredith integrated the campus of Ole Miss. According to colleague Ken Vinson, Morse did not join Dean Farley or the established law faculty in protesting Governor Barnett's actions on the day that Meredith integrated the campus, which contributed to an impression in the state that Morse was the right person for the job.[†]

* According to Morse, he had previously requested the recommendation from Farley, and Farley stated that he would write the document but had not.

[†] Morse's account of the day was that he was in Jackson arbitrating a case in court and was unable to get back to campus in time for the integration event due to roadblocks and vehicle searches by the highway patrol. Morse also had a shotgun in his car, and took a detour on his way from Jackson to Oxford to leave the gun at the home of a family

According to Claude Clayton, McDougal's reasoning in support of the appointment was due to Morse's "experience and acceptance by the Bar of Mississippi, as well as his being a native of Mississippi and being familiar with its problems."⁵ The Bar had been at odds with Ole Miss Law for some time, and acceptance of the new dean by the association was important to repairing the damaged relationship. Clayton stated that McDougal had made other recommendations in the case that Morse would not be available for or accept the position but did not report them. Once Clayton reported his conversation with McDougal, Chancellor Williams left the committee to discuss the recommendations, as if the rest would be mere formality.

The committee agreed with McDougal and reinforced the recommendation due to the fact that Morse was held in high regard in the legal profession, in addition to his interest in and enthusiasm for legal education. Also, Morse already had established a good relationship with the other members of the law faculty.⁶ The committee decided they had no desire to recommend any other potential selections for either Dean or Interim Dean of the Law School. So, Clayton left the meeting to telephone Chancellor Williams to ask permission to make only those two recommendations. Williams agreed but reserved the right to call the committee back in session should either recommendation not be supported by the administration or the Board. That, however, proved to be unnecessary.

On June 20, 1963, Chancellor Williams filed an addendum to the already prepared Chancellor's Report to the Board of Trustees that included the resignation of Robert J.

friend before entering the road-block. See Morse, Interview; Kenneth Vinson, "The Lawyers of Ole Miss," *Nation* (23 June 1969), 791.

Farley. The same addendum requested that the Board approve Joshua Morse III be promoted from Associate Professor of Law to Dean of the Law School and Professor of Law. The Chancellor also requested the Board's concurrence of his approval for Morse's leave of absence to begin September 1, 1963 and conclude on June 30, 1964 in order for Morse to accept the Sterling Fellowship at Yale University Law School. Morse was to complete an advanced study of law "with an emphasis on teaching and administration"⁷ based upon the fact that the Board and the university wished for the law school dean to have an advanced degree. * A request was also made for the Board to approve John H. Fox, Director of Admissions and Professor of Law to serve as acting dean in Morse's absence, in addition to his other duties. The Board of Trustees voted unanimously in approval of both Fox and of Morse. Morse would enter the deanship, and for a time, there would be no conflict in the space of legal education at Ole Miss Law.

The Ole Miss Law School Un-Integrates and Flourishes

Prior to James Meredith's graduation from the university, the remaining federal troops and Marshalls who had been stationed on campus for the protection of Meredith, withdrew from campus and left Oxford, leaving the place devoid of federal presence. So, Cleve McDowell, in his first semester of study in the law school, requested that he be allowed to carry a small handgun for his own protection, but both the university administration and the Lafayette County Sheriff's Department denied his request due to

* During discussions regarding the appointment, Morse told Farley that it was his intention to study admiralty law while at Yale. The nation's two top scholars in the subject taught on the faculty. However, neither taught a course while Morse was there. He instead focused his studies on trade law. Morse, Interview.

the fact that carrying firearms on campus went against university policy. However, his fear for his own safety trumped his desire to abide by policy. So, when McDowell returned to the campus for the fall semester, he brought with him and kept concealed, a handgun. One day, running late for class, McDowell dropped his sunglasses. When he bent down to retrieve them, the gun fell out of his pocket. Two students who witnessed the event called the Lafayette County Sheriff's Department, and deputies confronted McDowell when he was leaving class and arrested him.⁸

The student judicial council, chaired by Champ Turney, son-in-law of US Senator James Eastland, convened and voted 5-0 to recommend the expulsion of McDowell to Chancellor Williams. Though Josh Morse was at Yale at the time, John Fox, acting Dean of the law school, called him to ask for advice regarding a recommendation to be made to the Chancellor. The sentence for the charge, if pursued by the university, was ninety days in jail. Morse and Fox agreed that the best recommendation was to allow McDowell to withdraw from the university but to not pursue formal charges.⁹

The recommendation, however, went against the university policy of expulsion, and Chancellor Williams chose instead to expel McDowell. McDowell then appealed the expulsion to the Board of Trustees but was unanimously turned down. The decision was reviewed by the Racial Committee of the AALS a few weeks later at the annual meeting of the association in Chicago. Maintaining a watchful eye on the law school, the AALS

committee found that the administration was “not following a policy of discrimination”¹⁰ and found no fault with the university or with the law school for McDowell’s expulsion.*

Aside from the incidence with Cleve McDowell, the law school flourished in the early years of the Morse deanship. The student body numbered 284 for the 1963-64 academic year.¹¹ Included in this number were three women and thirty-three students from out-of-state. The full-time faculty totaled nine. Two visiting professors were hired for the year to teach in place of Robert Farley and Josh Morse. Corinne Bass, the law librarian, also became an instructor for the law school that year. Bass had served the law school in several capacities since 1946 but had never been allowed to teach until the fall semester of 1963. Also, Oxford attorneys, Thomas Henry “Hal” Freeland and Gerald Alexander “Gerry” Gafford were “acting assistant professors,” a part-time teaching post that had been customarily reserved for local attorneys.

Elsewhere on campus, the Faculty Senate and Academic Council had collaborated for more than a year to establish an implementation policy to supplement the Board of Trustee’s tenure policy that had been created in the fall of 1962.¹² In April 1964, the first part of the policy,[†] which established the procedures for granting tenure, was executed.¹³ Major points of the policy allowed for tenure after three years of full-time service, either continuous or accumulated. At least one of the three years must have been at a

* McDowell later finished his legal education at Texas Southern University and entered into the Mississippi Bar in 1971. Cleve McDowell, interview by Kim Lacey Rogers and Owen Brooks, November 1, 1995.

† At the time, the second part of the policy concerning the rights of tenured faculty members was still under review.

professorial rank, excluding “acting” positions. The policy also stipulated that anyone holding tenure at another public institution of Mississippi might transfer tenure to Ole Miss after a one-year period of probation. For those not granted tenure by the end of the fifth year of service, a terminal contract for the sixth year was to be issued. Also, in conjunction with the implementation of Part I of the policy, tenure application forms were prepared. John Fox, Jr., Joel Bunkley, Jr., Arthur Custy, and Roscoe Cross were the first law professors advanced to tenure status under the new policy.¹⁴

Though Morse was not on campus, he was busy making plans for the law school. The Mississippi legislature had shown much interest in expanding the Port of Gulfport as well as operations on the Mississippi River in order to strengthen trade with Central and South American countries.¹⁵ Morse, himself, was busy studying trade law at Yale. While there, Morse met James Milton Brown, who in addition to studying at Yale, had been awarded a fellowship to study international trade at New York University, and Morse saw Brown as an opportunity to bring much needed legal education in trade law to Ole Miss. So, Morse hired Brown for the fall semester.

That summer, Morse also helped to establish better coordination of seven law school scholarships, which had been awarded somewhat subjectively in the past.¹⁶ Under Morse’s new guidelines, the scholarships were to be awarded to one “student of each of the seven State schools, that is: Mississippi State University, University of Southern Mississippi, Mississippi State College for Women, Delta State, Millsaps, Belhaven, and Mississippi College.”¹⁷ Morse made further recommendations that the students selected

need to have scored at least 550 on the Law School Aptitude Test (LSAT)^{*} and that if no student who applied met the requirement, the scholarship be awarded to an out-of-state applicant who did.

Regarding the curriculum, the law faculty decided that a dissertation would be required of law students seeking advanced legal studies,¹⁸ and in the summer of 1964, the Board approved the advanced degree in law, the Juris Doctor (JD). The precursors of the JD had been first instituted at Harvard Law School in the late 19th century.¹⁹ By the early 1960s, the degree had gained much momentum in American law schools outside of the Ivy League. Including it in the degree plan at Ole Miss put the law school in line with a nationally growing trend in law schools to offer advanced study of law that was aimed at professional practice. Also, Morse believed that offering a JD would draw more out-of-state students to the law school.²⁰ In January 1966, the law school graduated its first class of holders of the JD.²¹ Before Morse had completed his year at Yale, his leadership had already begun to transform the place of Ole Miss and to reposition the school in the national landscape of legal education.

Morse officially assumed his decanal appointment in the fall semester of 1964. Upon his return, Corinne Bass was promoted to assistant professor, a post she held until her retirement in 1967.²² Adding further distinction to the faculty, Parham Williams took a leave of absence for the year to study under the Sterling Fellowship at Yale, and five

^{*} The previous year, the law faculty voted to require the LSAT as a prerequisite for admission to the law school, which was to become effective for the fall 1963 semester. See Landon, *UM Law History*, chap. 4.

new professors joined the faculty of the law school. Luther L. McDougal III,^{*} who was a graduate of Ole Miss Law and held an advanced law degree from Yale University, left private practice in Tupelo to join the faculty. Also, while at Yale, Morse had recruited four graduates of the 1964 LLM[†] class.

It was important to Morse to represent to students, not a liberal view per se, but what he considered a broader worldview.²³ This was evident by his selection of new professors, which included, according to Morse, a “Texas cowboy.”²⁴ Ken Vinson, finished his studies at Yale before Morse and began teaching for the law school during the summer term.²⁵ He had earned his LLB from the University of Texas Law School in 1959. Michael P. Katz was an Orthodox Jew from South Africa and had earned his LLB from the University of Cape Town in 1961 before coming to the United States.[‡] Morse also recruited from Yale an Australian, William E. Holder, and James M. “Bill” Brown, who had earned his JD from the University of Florida.

^{*} Luther McDougal III was a nephew of Myres S. McDougal.

[†] Yale University, along with other Ivy League Schools initially refused to implement the JD degree because so many schools outside of the Ivy League had adopted it. It was not until market-forces demanded the degree during the 1960s that Ivy League schools began to follow suit. Yale, however, was the last of them, not implementing the degree until 1971. Anthony T. Kronmann, ed., *History of the Yale Law School: The Tercentennial Lectures* (New Haven: Yale University Press, 2004).

[‡] Katz would not stay on the faculty long, as he had an affair with the scholarship recipient from Mississippi College for Women. The two left the state and never returned. Morse, Interview.

Under Morse's leadership, the tradition of having local attorneys serve as acting assistant professors was eliminated in favor of creating a slate of twenty-nine visiting lecturers comprised of members of the Mississippi Bar and also of the bars of neighboring states.²⁶ The lecturers were to be invited to campus to speak on a wide variety of jurisprudential topics related to their specialties in practice. The change in composition of the faculty was drastic. Yet, initially, it went unnoticed outside of the university.

Ole Miss Law, Under the Microscope of the AALS

In November 1964, the Executive Committee of the AALS met to discuss potential actions against the law school regarding the expulsion of Cleve McDowell as well as the denial of admission to a black female, Dona Moses, earlier that year.²⁷ Moses applied for admission to the law school for the 1964-65 academic year.²⁸ Shortly after she applied, Moses came under the investigation of the Sovereignty Commission under the directive of Erle Johnson, in order to determine whether she was related to Robert Moses, who was working with the SNCC in voter registration drives. Virgil Downing, a paid investigator for the Sovereignty Commission, confirmed that she was married to Robert Moses and that the two had paid their poll taxes and listed the same address at the time.²⁹ The Commission investigation confirmed that Dona Moses was a paid staff member of SNCC and also worked for the COFO.

On several occasions, Moses had been spotted at rallies by the Commission investigator or informants. She also helped to coordinate housing for workers participating in the "freedom election" campaign who were coming into the state.³⁰ Moses also had been previously arrested, and Johnston requested that Downing forward

the information to both the Board and to the governor.³¹ In Johnston's report to Jack Doty, acting as general counsel for Ole Miss, he reported that the Commission found nothing against Moses other than her marriage to Robert Moses, who was a "known"³² affiliate of communist front organizations and that they were unable to determine if she was a resident of Mississippi. It is not clear at what point Moses was notified that her application for admission had been declined, however, she left for vacation in Ohio in July. She later called the COFO headquarters to state that she would not return to the state, though she did not provide a reason.³³

At the AALS meeting, Josh Morse met with the Executive Committee to answer questions surrounding both Cleve McDowell and Dona Moses. Satisfied with the facts presented regarding McDowell's case, the AALS committee tabled the discussion. Josh Morse defended the decision of the university in regard to Dona Moses because he felt that the fear of additional riots on campus, at the time, outweighed Mrs. Moses' admission. Given the recent history of racial tension at Ole Miss, it was difficult to not assume that Moses' denial of admission may be related to race; however, Morse held firm that the university's decision was, in fact, due to a sincere fear of violent rioting. The committee tabled discussion regarding Cleve McDowell but continued to request that the university, in consultation with members of the law faculty, reconsider the application of Dona Moses.³⁴ However, there is no indication whether the university addressed the situation further or whether Moses ever contacted the university again.

A Course for Change

The next spring, the law school reallocated regular funds to establish scholarships for female applicants to begin studies in the summer term.³⁵ The scholarship would

provide tuition and fees for five female applicants to the law school who were residents of Mississippi. Consistent with requirements previously established for other scholarships, the scholarship was to be awarded based upon LSAT scores, undergraduate grade point averages, and extracurricular involvement in the university that the applicant attended.

During the late fall semester of 1964, Morse attempted to secure funds for the purpose of inviting guest speakers to the law school. Law school funds were not sufficient to allow for the travel for speakers to be paid out of the law school budget. He contacted US Senators John C. Stennis and James Eastland for assistance.³⁶ He also asked Eastland to place him into contact with an attorney from the Department of Justice who would be willing to speak on campus to the law school body. Unfortunately, neither senator was able to provide the law school with any assistance with funding or a guest speaker. Unsuccessful, Morse turned his sights elsewhere.

In late September 1964, Morse had been in New Haven for a visit to Yale University. Having found symbolic logic to be beneficial to his own studies while he was a student at Yale, on his return visit, Morse recruited Professor Layman E. Allen of Yale University Law to teach a summer school course on the applications of symbolic logic to the law that was to be taught the following summer.³⁷ Morse facilitated a joint appointment for Allen with the School of Education, which would make the trip to Mississippi more lucrative for Allen and would bring his expertise to a broader university audience. In addition to teaching logic as applied to the law, Allen was to teach a course in logic for teachers.

While in New Haven, Morse discussed with the law school dean the possibility of applying for a grant from the Ford Foundation for the law school.³⁸ He also had been in

contact with William Pincus,^{*} the Ford Foundation's legal program director, regarding support from the Foundation for a legal expansion program for the law school.[†] Intent on securing the grant for the law school, Morse scheduled a trip to New York City to meet with Pincus on October 12 in order to further discuss a proposal. The details of their discussions are not recorded, but Morse's trip obviously was successful. Pincus requested that Morse provide him with a funding proposal.

Upon his return from New York, Morse prepared the proposal. He wrote to Pincus to outline his plans, including a budget, for an expansion of the legal program offerings at Ole Miss Law. In this correspondence, Morse expressed deep concern about the fact that, while Ole Miss was the fourth oldest public law school in the United States, it ranked in the lowest one-tenth in library holdings and faculty salaries.³⁹ He requested funding for additional faculty reasoning that in order to maintain a proper faculty-to-student ratio, a reduction of class sizes was necessary. As the law school continued to admit a larger student body with each year, the faculty was not sizeable enough to accommodate the number of students enrolled in the law school.

^{*} It is not clear how Morse initially came into contact with Pincus, but it appears to have been either while in New Haven or as a result of his visit to Yale in September 1962.

[†] The Ford Foundation had already shown support to and interest in Ole Miss, as they made a \$1000 grant to support expansion of the library in early 1962.

Additionally, Morse asked for aid to support a broadened curriculum in individual constitutional rights,^{*} which he described would serve to “determine and explore the basic constitutional rights of citizens, and non-citizens, as established by the Constitution, legislative acts, administrative regulation, interstate compact, judicial decision, accepted usage and practice, and scholarly and official opinion.”⁴⁰ In his explanation of the objectives of such courses, Morse noted that they would serve to:

1. Broaden the curriculum by an exploration of philosophical bases of constitutional individual rights and their limitations and conflicts;
2. Locate and determine the claimants, including individuals, groups, agencies, and governmental subdivisions asserting claim to regulate the right of individual privacy and the right of agencies or groups to infringe thereon;
3. Provide an analysis of the economic bases of the civil rights movement; being an examination of the concept of private rights and public rights as affected by private and public property concepts and welfare economics;
4. Provide an analysis of the fundamental conflict between the concept of freedom, freedom of the press and freedom of speech and the right of an individual accused of crime to a fair and impartial trial;
5. Examine the rights of individuals to control the size of their families and the right of religious groups to advocate freedom from or freedom of birth control as opposed to the rights of the state and collective society to

^{*} At the time of the letter, the only course taught in constitutional law at Ole Miss was the same broad survey course previously taught by Bill Murphy.

regulate the size of the population when faced by the threat of starvation and over-population; and

6. Analyze and review the criminal legal system with a view toward making the system more economical and efficient with preliminary emphasis on the right to counsel as established by *Gideon* and *Escobedo*.^{*} The emphasis will be upon the balancing of economy and efficiency with constitutional fundamental civil liberties.⁴¹

Morse had also identified five faculty members that would teach these seminars: Kenneth Vinson, William Holder, Michael Katz, and Parham Williams, all who held advanced law degrees from Yale, and George Stengel, whose graduate law degree was from Harvard. He also requested funds to support one faculty member from philosophy and one from economics to teach courses in the law school because Morse felt that the student experience in the seminars would be enriched by formal instruction in disciplines that greatly impact the understanding and practice of the law.

It has been previously noted that Morse was instrumental in bringing visiting lecturers to the law school from prestigious schools such as Yale and Harvard. The correspondence between Morse and Pincus reveal that this was an intentional part of the proposal Morse made to the Ford Foundation, reasoning, “This type of visitation program would have a tremendous impact in broadening the outlook of students.”⁴² Morse also had his choice for the first visiting lecturer in mind—Richard Donnelly, a law professor

^{*} *Gideon v. Wainwright*, 372 US 335 (1963) and *Escobedo v. Illinois*, 378 US. 478 (1964) established the right to counsel for criminal defendants who are indigent (*Gideon*) and the right to counsel while under interrogation by the police (*Escobedo*).

at Yale. Morse wanted Donnelly to offer individual rights courses in “privacy problems in evidence of church and state.”⁴³ He also planned for the visiting program to bring in experts in the subfields of individual rights of comparative state law; public education; trial law; international trade and marketing;^{*} and the newly enacted Civil Rights Act. In addition to lecturers, Morse wanted to host speakers from the US Department of Justice. While US Senators Stennis and Eastland had been unable to assist Morse with financing, they eventually did assist Morse with identifying speakers and helped Morse to make initial contact with the justice department.⁴⁴

Morse also proposed a seminar series that was to include seminars for attorneys in the South, for teachers, and for law students, all of which would Morse wanted to open to the public. In an effort to increase access to the seminar series, he planned for the proceedings of the series to be published in the *Journal*, noting that it would be “circulated over the entire subscription list, which includes all of the practitioners of this state.”⁴⁵ He had already established a new position for the law school, the Director of Continuing Legal Studies, and would utilize the director to coordinate seminars in conjunction with the Mississippi Bar Association. Morse appointed Parham Williams to be the first law professor to fulfill the role.⁴⁶ As Williams would be on a leave of absence to study at Yale that year, Luther McDougal was slated to serve in an interim capacity.

^{*} This seems to not follow the same train of thought of the other courses that Morse outlined, but it was his own field of expertise, and as the state had been exploring expansion of trade, the selection was certainly attuned to the necessity for economic development in Mississippi.

Rather than avoid the fact that the law school had recently been under investigation by the AALS regarding racial discrimination, Morse made the case that the organization had exonerated Ole Miss Law. The AALS also had commended the faculty “for withstanding political and economic pressure,” and in fact, Morse reasoned that Ole Miss had the ability to “be tremendously influential on the political thought and action of the state of Mississippi.”⁴⁷ It was his thought that Ole Miss could become influential throughout the entire southeastern United States. He pointed out that nearly every political leader in the state had attended Ole Miss, that all but one governor since Theodore Bilbo had attended the school, and that numerous current political figures all attended Ole Miss Law.* Morse was believed to be a safe choice for the law school, but his attention to race and politics in his proposal was an early indication that Josh Morse was not interested in preserving status quo in the space of Ole Miss Law.

Morse also reached out to the White House for the purpose of establishing a summer internship program in Washington, DC for outstanding Ole Miss Law students who had completed their first year of legal study to participate in internships in the nation’s capital.⁴⁸ Morse proposed that the law school partner with various government agencies, including the Federal Trade Commission, Federal Power Commission, the

* Specifically, Morse noted the governor, lieutenant governor, state treasurer, superintendent of education, and “many men more influential than any of these,” including the speaker of the House of Representatives, a US Senator, Four US Congressmen, the congressman for the adjacent district, which includes Memphis, three federal judges sitting in this state, and seven of nine seated Mississippi Supreme Court justices (Morse to Pincus, PLF Files, Box 26, folder Law School, 16 October 1964).

federally owned Tennessee Valley Authority, and the US Departments of Defense, Justice, Agriculture, and the Interior. The cooperative agreement would allow students to gain valuable experience in the government while assisting government agencies that were short-staffed.

Morse's efforts were fruitful. The law school received grants from the US Department of Agriculture in Washington, which was used to create the Legal Institute of Agricultural and Resource Development (LIARD).⁴⁹ The Tennessee Valley Authority also contributed funding to the school. Both were used to fund interdisciplinary research of the state's water resources in relation to state regulatory procedures. Because of these initiatives, additional faculty members were added to the law faculty. Joel Blass, William Montgomery, and William Walker were all hired to work for LIARD. Later, Walter E. Chryst, the Director of Research in the Legal Institute of Agricultural and Resources Development was approved for a dual appointment with the law school. Chryst held a Master's degree from Mississippi State, and, to date, is the only person to serve as a law professor at Ole Miss who did not possess a legal degree.

In January 1965, Morse requested funding from the vice-chancellor to fund graduate assistantships in the law school. The law school enrollment for the year had reached 294, and student fees had increased by 28%. Morse felt that this justified additional funding to the law school. He also believed that in order for the faculty to engage in research enterprises of their own that they must have research assistants, else "nothing can be accomplished."⁵⁰

That spring, Morse placed much emphasis on recruiting, not only for the law school but also for other graduate programs. The dean surveyed tuition for programs and

found that tuition for the law school was comparable to private institutions across the nation.⁵¹ Because the law and graduate programs drew larger allocations from the Board, it was Morse's recommendation that the university place special emphasis on recruiting graduate and law students. As a part of his survey, however, he found that library allocations and faculty salaries were low in comparison to other schools. That, he knew, would be a barrier to a successful campaign to recruit students. So, Morse recommended the university begin an immediate fundraising campaign via its alumni.

Morse was not the only one to bring capital into the law school. That summer Professors Holder and Vinson received a grant of forty-thousand dollars from the Rockefeller Brothers Fund in order to underwrite an ethics course for the law school. The course was to cover the ABA code of ethics as well as to emphasize the responsibility of attorneys to devote time to pro bono work to "members of indigent classes."⁵² The course was implemented in that fall under the direction of Judge William N. Ethridge, the Chief Justice of the Mississippi Supreme Court.

As the law school expanded, the landscape of the law school had to undergo change as well. In the fall of 1965, the Board approved a one-time allocation of \$12,630 for renovations to be made to the law school building.⁵³ The physical landscape was not the only change. Students had become particularly interested in civil rights, and in response to a petition signed by nineteen students, Law professor, William Holder, implemented a legal course in civil rights. The class was so popular that Morse had to limit enrollment in the course to third-year students.⁵⁴

By the commencement of the fall semester of 1965, student enrollment in the law school had increased to 344 students.⁵⁵ The law school had been devoid of the presence

of a black student since the expulsion of Cleve McDowell in 1963, but in the fall of 1965, Ole Miss Law would reintegrate with the admission of Doug Baker, William Miller, and Reuben Anderson.⁵⁶ One of these, Reuben Anderson, had applied for the 1964 year but was denied admission because he was not able to obtain enough letters of recommendation.⁵⁷ So, he entered law school at Southern University in Baton Rouge, Louisiana for the 1964-65 school year. Earlier in the year, Dean Morse had contacted Anderson about transferring to Ole Miss, and in the fall of 1965, he left Southern University to complete his studies at Ole Miss. As the black population on campus was slowly but steadily increasing, the tension regarding race on campus kept pace. Because of this Anderson spent most of his time attending to his studies, but he often travelled with Dean Morse to recruit students for the law school.⁵⁸ Reuben Anderson would become the first black graduate of the law program in 1967.*

Over the summer, the Board had modified the tenure policy for the university. The modification required that should a tenured faculty member be identified for termination, the chancellor must submit a statement detailing grounds for dismissal to the University of Mississippi Tenure Committee of the faculty senate. The report had to be prepared by the chancellor or a faculty committee appointed by the chancellor. Also, the Board reserved the right to appoint a “special committee” in order to determine its own grounds for dismissal. Though the report had to be submitted to the senate committee, the

* Eighteen years later, he would become the first black appointee to the Mississippi Supreme Court. He would also, in 1997 become the first black president of the Mississippi Bar.

Board affirmed its sole authority in approving or rejecting employment decisions for the university.⁵⁹

That fall, Part II of the university tenure policy went into effect formally establishing a standing tenure committee on the faculty senate.⁶⁰ The committee was to serve as an investigative and review body for the purpose of making recommendations to the chancellor in the event that termination of a faculty member's appointment should come into question. In the event that the chancellor chose to recommend to the Board dismissal of a member of the faculty, the person was to be afforded a hearing, and the members of the tenure committee would serve jointly with the university's Committee on Academic Freedom and Responsibility to hear cases.

The progression of the law school did not go unnoticed. While opinions varied, newspapers from around the state and region ran editorials about all of the changes taking place at Ole Miss Law. Outside of the Deep South, Ole Miss was applauded for its impressive progressive movement, which included bringing a slate of prestigious professors from Yale University as well as guest lecturers from the Ivy League. Conversely, the *Mobile Press* described the new faculty as a "parade of 'brainwashers' from the left." The editor also was angered that no the invitation to be a guest lecturer had had been reciprocated by Yale or Harvard, claiming that, "the left-wing establishment doesn't often practice what it preaches with regard to academic freedom."⁶¹

After the Civil Rights Act of 1964 was enacted, student demonstrations on campus increased, and in many instances, moved beyond peaceful protests, resulting in property damage and arrests. While no law students had been involved in protests, the law faculty decided to take a formal position regarding the frequent unrest and increasing

disorder on campus. On May 3, 1965, the law school faculty convened a special meeting to adopt a resolution that denounced violent resistance to integration on the campus of Ole Miss. The resolution to the Board of Trustees and to Chancellor Williams recommended that violence on “campus be forcefully quelled,” and that the administration should act immediately to “end racial discrimination.”⁶²

Change was happening, and it was occurring at a pace that, for Mississippians, was rapid. The law school was evolving toward a more progressive space of legal education. Students began to identify with civil rights as an issue that had to be addressed and were becoming more politically active. Ideologies foreign to the state were invading campus, especially in the law school. The media had taken notice, and soon, so would the Board and Mississippi’s political leaders.

A New War Brews

In the spring of 1966, the speaker’s bureau of the law school, under the guidance of law professor Michael Trister,⁶³ invited US Senator Robert F. Kennedy to the campus to speak to the law school. This invitation drew attention to the law school and angered many in the state. The Board called for Morse and Chancellor Williams to appear before them. At the time he was summoned, Morse was not told the nature of the meeting.*

Once he arrived, the Board demanded that he withdraw the invitation to the senator to speak on campus. He refused and told the Board that he had advised his students that the invitation would draw controversy and encouraged them to consider withdrawing the invitation themselves. However, he left the decision in the hands of the students and

* Morse later described the experience as being, “offered up on the temple to . . . whatever gods they were,” Morse, Interview.

made it clear to the Board that he would not intervene. Morse told the Board, “now, *you’ve* got the power to withdraw it; if you want to withdraw it, so you go ahead.”⁶⁴ Then, Board Trustee M.M. Roberts introduced a resolution to the Board to have the invitation revoked. The measure failed, and preparations for the arrival of Senator Kennedy were made.⁶⁵

When the senator arrived in Oxford, Dean Morse met Kennedy and his wife at the airstrip adjacent to campus. According to Morse, he arranged to pick them up at the airplane because he feared that an assassination attempt would be made on the senator.⁶⁶ By the time the plane landed, a crowd of more than 5000 had congregated at the airstrip, and much to the surprise of the dean, when Kennedy stepped off the plane, the crowd erupted in cheers. Morse had meant to quickly move Senator Kennedy to his car, but instead, Kennedy moved to the crowd to shake hands. Despite the greeting, Morse could not help but feel tense the entire time.

The senator’s speech originally was scheduled to take place in the gymnasium but was moved to the university coliseum due to the anticipation of a large attendance. As with the airstrip, Morse had arranged for the Senator to exit the car on a lower level of the coliseum in order to avoid crowds, but Kennedy insisted that the car stop in front of the crowd. When Kennedy and his wife exited the car, they were greeted to a standing ovation of over five thousand students, faculty, and staff.⁶⁷

Upon introduction of Senator Kennedy, Ed Ellington, the chairman of the Speaker’s Bureau, exclaimed, “After this day, never again let it be uttered that this is a closed society.”⁶⁸ During his speech, Kennedy remarked that race relations were a problem for the South but were a national cause for concern, stating, “you have no

problem the nation does not have. . . . You share no hope that is not shared by students and young people across this country. You carry no burden they too do not carry.”⁶⁹

During the question and answer portion of the evening, Kennedy was met with many inquiries regarding his conversations with Governor Ross Barnett during the Meredith Crisis. He recounted the event and shared that Barnett had asked him how many and when marshals should place their hands on their guns on the day Meredith was to integrate Mississippi. This was met with laughter from the audience.

Though the Board had not prohibited Kennedy from speaking on campus, they put together a committee to investigate how and why the visit had been initiated in the first place. On campus, the event had been a success, but the Board was unhappy. So, Dean Morse provided the governing body with a detailed explanation that led to Kennedy’s speaking invitation. While the event had not caused trouble, Morse also apologized for any trouble the event might have caused. This satisfied the Board for the time, and they disbanded the investigative committee.⁷⁰

The law school was growing, but Morse was concerned with an aspect of the program that was missing—clinical training for the law students.⁷¹ Then, the law school received a grant from the National Defender Project. The grant provided funding for second and third-year students to intern with local attorneys in the practice of criminal law who represented indigent criminal defendants. It was a step in the right direction, but it would not be enough. The law school was still in great need of a clinical program in civil procedure.

Then, in April 1966, Morse found the way to implement civil training for the law students. The US Office of Economic Opportunity (OEO) entered into a pilot program in

conjunction with the law school that would allow clinical training of the Ole Miss Law students while affording free legal aid to poor residents of Lafayette County. Morse had previously discussed obtaining money from the OEO with Cling Bamberger, who was the first director of the legal services branch of the OEO, established during the Kennedy administration.⁷² At first, Bamberger would not see Morse. Knowing the legal services program had money to give, and Ole Miss was in desperate need, Morse was not willing to back down. So, the dean went to Washington DC and tracked Bamberger down. Bamberger initially would not see him, but Morse appealed to a need of Bamberger—food. Morse talked him into taking a lunch break and used the time to informally pitch a legal services program in Oxford.

Morse's appeal worked. After submission of a formal plan, the OEO approved the program on a test basis. According to planning documents, Morse received confirmation from practicing attorneys in the county who were willing to render legal services to indigent clients as well as to mentor second and third year law students in the practice of law. The initial program was to run until the end of January 1968 with an option to convert to a regular grant after the pilot phase of the program.⁷³

During the pilot phase of the program, titled Lafayette County Legal Services, two legal offices were opened, one in downtown Oxford and one on the campus of Ole Miss.⁷⁴ Each office employed a staff attorney, two stenographers, a social worker, investigator, receptionist, and students from the law school. The law school had all oversight for the program, and the director of the program was selected from the law faculty. The law program also employed a member of the Ole Miss faculty as its executive director, who would have the primary responsibility of maintaining continuity

between the legal aid program and the law school's course offerings, seminars, and legal publications. Initially, the program was directed by law faculty member, Professor Aaron Condon.⁷⁵ Also, the law school's Director for Continuing Legal Education, Luther McDougal,^{*} was to work half-time with the program for the purpose of "educating the poor to employ the law offices as institutions of assistance so that they may become better educated concerning their legal rights and responsibilities."⁷⁶ The first year, students in the clinical training program spent their time mostly assisting with divorce cases in Lafayette County.⁷⁷

Ole Miss Captivates the Nation

In May 1966, Ole Miss made the cover of *Ebony* magazine. With a total black enrollment of fourteen, nine of which were law students, Ole Miss continued to lag behind other southern colleges. Nonetheless, the fight against integration had ended, and only one of the fourteen black students had entered into the university under court order.[†] Regarding the law program, Dean Morse told *Ebony* that racial pressures in the university were "about the same as always." The difference this time, according to Morse was that

^{*} It is not clear why Parham Williams never took over the position of Director for Continuing Legal Education upon his return from leave of absence, but when the OEO program was initiated, Luther McDougal was still in the position and was the one to assume duties in the legal aid program.

[†] The student, Cleveland Donald, was the second black undergraduate student to enroll at Ole Miss as well as the second to graduate. More than a decade later, Donald would help to establish the black studies program at Ole Miss. Landon, *UM Law History*, chapt. 5.

in the law school, they did not “pay any attention to it.” *Ebony* proudly proclaimed that the Ole Miss Law School had become the “acknowledged forerunner in liberal thought.”⁷⁸

A few months later, the progression of Ole Miss Law also caught the attention of *Time* magazine, and on September 23, 1966, a report titled, “New Mood at Ole Miss” ran. In the article, Ole Miss Law was described as historically being “the prep school for political power in Mississippi.” The article went on to state that, “what the law school is the state very largely is,” and it directly linked the racial tensions of the state to its power structure—one that largely had been comprised by Ole Miss Law graduates. The article observed that the law school traditionally had “allowed its all-white student body to ignore the winds of US constitutional change, while steeping itself almost entirely in local law, customs and politics,” and that the graduates of Ole Miss Law, “emerged with their Deep South views untouched,” going on to lead the state “with an isolated narrow-mindedness.”⁷⁹

By the spring term of 1966, however, things were different in the law school. Of the law school’s 368 students, nine were black. That was more than at any historically white law school in the nation. *Time* attributed that to the leadership of Dean Morse. The article also reported that of the twenty-one faculty members, eight new faculty members were recruited by Morse, and three of them had turned down offers from Manhattan law firms to accept their positions at Ole Miss. *Time* affectionately called these men, “Yalies.” The moniker would stick, but it would not be used so lovingly by the news outlets of Mississippi.

Law professor Frederick McLane was quoted in the *Time* article, describing his job at Ole Miss as, “like the Peace Corps, except we’re given much more responsibility.” Michael Trister added that Ole Miss was “becoming the one institution in this state that is generating interest and excitement.” The article went on to describe the seminar “jet-set course” as indicative of a “new willingness to listen to outside opinions” and highlighted the visit of Robert Kennedy on the campus of Ole Miss. The praise of Ole Miss concluded with a remark by Yale’s Law Dean Louis H. Pollak, who had been a visiting lecturer in the course the previous year. Ironically, more than halfway into the 20th Century, Pollak recognized that the law school was “at the threshold of becoming a focus for the kind of thinking that can bring Mississippi into the 20th century.”⁸⁰

The media in the state had fallen silent about the law school after Bill Murphy and Bob Farley left, but these articles revived hysteria regarding Ole Miss Law. One did not have to look far for the voice of dissent. Shortly after the *Time* article ran, the campus newspaper featured a complaint penned by David Clark, a student^{*} of the legal program, which was then reprinted in the *Clarion Ledger*. In it, Clark expressed that he was insulted at the notion that Dean Morse felt that the law school needed “help from the Peace Corps.” Further, the student remarked, that “if this were Tougaloo, these events would be normal. But this is not Tougaloo; this is Ole Miss.” Clark blamed the events on the “lure of federal funds” and stated that Ole Miss, students and administration alike, must “return to the House of our Fathers.”⁸¹

^{*} David Clark had been a strong supporter of Ross Barnett and represented the segregationist faction of the law student body. Morse remembered Clark as being, “a dyed-in-the-wool segregationist.” Morse, Interview.

Clark also viciously attacked the *Ebony* article, though he did agree on one point—Josh Morse was the source of all of the excitement over Ole Miss Law. To Clark, however, Morse was not to be praised. He was a “sellout.” According to the law student, Morse was “leading the law school down the road of liberalism,” and he marked law professor Mike Horowitz^{*} as Morse’s wingman. According to Clark, Horowitz had been pictured in the *Ebony* article “promoting social mixing of the races.”⁸² In the *Ebony* feature, a photograph was printed of Horowitz talking to black law student, William Miller, an injury to the law school that David Clark could not ignore.

The *Clarion Ledger* also ran a full reprint of the *Time* article with an editorial that focused primarily on the Ford Foundation, linking the Foundation grant to the perceived “left-leaning” influences that had appeared on campus after the law school received the financing. The news piece cautioned its readers that the Foundation had bought its way onto campus for the purpose of promoting “propaganda and brainwashing to promote international socialism, civil rights unrest and other causes popular with disciples of the 20th Century Revolution.”⁸³ Board of Trustees member M.M. Roberts joined in the discontent with the law school stating, “I’m embarrassed by my law school.”⁸⁴

^{*} Horowitz was a 1962 graduate of Yale who spent three years in private practice in New York City before being recruited to teach at Ole Miss. The Sovereignty Commission first investigated Horowitz, it appears, because of a mix-up with the famous author, also named Michael Horowitz, who was close friends with the controversial figure Timothy Leary. Though the Ole Miss Law Professor Horowitz had no connection to Leary, to many Mississippians, he was just as dangerous to their way of life.

A few days later, the comparatively more liberal Memphis newspaper, *The Commercial Appeal*, ran an editorial that attributed the outrage in Mississippi to the national attention to “Mississippi’s ultra-conservative element” that was hoping the state’s “politically oriented legislative committee” would conduct an investigation into the law school.⁸⁵ The author recalled the previous troubles experienced by Robert Farley during his tenure at Ole Miss and claimed that Dean Morse “made Farley look like the moderate he actually is.” The article went on to point out that while a number of liberal speakers had visited the campus since Morse had become dean, many conservative speakers had received invitations as well, a fact that had been overlooked in conservative papers.

The issue was not so much liberal speakers on campus as it was the liberal atmosphere Morse had created. It was a climate that caused students to want to entertain both sides of an issue before forming an opinion. The “New Mood” at Ole Miss Law was more than a mere change in racial composition of its students. It was evident that the space of the school was changing as well. Experiencing outside ideologies was causing students in the law school to reconsider their own identities. Additionally, many students were working to facilitate legal aid to the state’s poorest residents, most of who were black, and these interactions certainly contributed to a change in the way those students began to view race.

By the time the fall semester of 1966 began, the black enrollment at the law school totaled fourteen, a ratio much higher than anywhere else in the nation and more than double the number of black attorneys practicing in the state.⁸⁶ One of these students

was Constance Slaughter,* who in 1970 would become the first black female graduate of Ole Miss Law. Slaughter helped to organize the campus chapter of the Black American Law Students Association (FALSA), a group that would become a voice of black protest in the coming years.⁸⁷

The atmosphere on campus had calmed from the media frenzy in the spring, but during the fall semester, Ole Miss Law would shake things up once again. Aaron Henry was invited to lecture to a law school class by Professor William Dellinger, one of Morse's Yale hires. Henry, a US Army veteran of World War II, earned a pharmaceutical degree from Xavier University in New Orleans by utilizing his GI Bill. He became actively involved in civil rights in Mississippi, first by organizing voter registration activities in Clarksdale, where he practiced pharmacy. Henry had helped to organize a chapter of the NAACP in Clarksdale, and in 1959 was elected president of the Mississippi chapter. He also was a founding member of the Mississippi Freedom Democratic Party.⁸⁸ Henry had given many speeches around the state regarding civil rights issues in Mississippi, and Ole Miss was not his first time speaking at a university. He had also addressed the Young Democrats at Mississippi State University earlier in the year. However, his visit to Dellinger's class was not welcome by one law student.

Like the *Time* and *Ebony* articles earlier in the year, Henry's visit upset law student David Clark, however, the student was willing to come to a compromise.⁸⁹ He told the law professor that he would not sit in the same room as Henry but was interested to hear what Henry had to say. So, Dellinger agreed to allow Clark to sit in the hallway

* Slaughter, now Constance Slaughter Harvey, would go on to become the first black female judge in Mississippi in 1976.

and to keep the door open during Henry's lecture so that he could listen. The compromise worked, and Aaron Henry addressed the law class without interruption or complication.

Though Dellinger was agreeable to the student's terms, the Board of Trustees did not view Aaron Henry's presence on campus favorably. This prompted the Board to adopt a policy in November 1966 regarding invited campus speakers. The policy, presented for consideration by M.M. Roberts, required that the names of potential speakers be provided to all members of the Board in advance of an invitation to the speaker. The policy vaguely granted authority to administrative heads of the institutions by setting prohibitions regarding who administrators could not approve to speak at a public institution, including, "speakers who will do violence to the academic atmosphere of the respective institutions; and persons in the disrepute in the area from whence they come, and those charged with crimes or other moral wrong."⁹⁰ The policy also prohibited invitations to "any person who advocates a philosophy of the overthrow of the government of the United States."⁹¹ While the policy was presented as guidelines and did not expressly use the term *ban*, it would eventually become frequently referred to as the *speaker ban* in newspapers.

A Rebel Gives Notice and Racial Conditions Stir

Just as troubles in the law school once again began to brew, in January 1967, Chancellor J.D. Williams sent a formal resignation to the Board of Trustees requesting that his contract terminate on December 24, the day before his sixty-fifth birthday."⁹² In his resignation, Williams expressed gratitude to the community and to the current Board and past boards for their "understanding and support."⁹³ With his resignation, Williams

enclosed recommendations of criteria for selection of the next chancellor. He believed that a chancellor should be between the ages of thirty-five and fifty-five so that the “bulk of educational achievement should not be behind him” but not so young as to be too immature to handle the duties of the chancellorship. He also believed that the person should be able to relay the needs and nuances of the academy to the Board and legislatures, alumni, and the general public. Williams also felt that the new chancellor should have a vision of the university, not in the short term, but for twenty years to come. His recommendations were sensitive to the unique position of a university leader, especially when the institution is public, who has to balance the interests of those inside the space of the university with outsiders, which can be challenging, especially when the interests of outsiders are driven by the majority opinion of the state.

Unlike Bob Farley, who retired only to leave and continue in academia, Williams’ retirement was for rest, and he planned to remain in Oxford and offered himself to the service of the university at any time. The same month, as Chancellor Williams planned his retirement, Josh Morse was granted tenure under the new tenure regulations. The next month, Luther McDougal and Ken Vinson granted the same,⁹⁴ but soon enough, the protections afforded by tenure would be challenged in ways not before seen at Ole Miss Law.

Behind the scenes, the Sovereignty Commission was monitoring activities at Ole Miss. Josh Morse was identified as a person of interest in an April 14, 1967 report to the Commission made by a paid investigator, A.L. Hopkins.⁹⁵ According to the report, which focused on the SSOC, the group was a communist cell, evidenced by their protests of the Vietnam War and work with other civil rights groups. The memo cautioned that the

group operated on grants from the Communist Party. While Morse's involvement with the SSOC was not stated explicitly, he had been placed on the radar of the Sovereignty Commission and would continue to be surveilled.

That summer, funds from the OEO grant were used to send forty-four law students to various locations around the country, including Chicago, Oakland, and New York City. The students spent the summer clerking for other OEO programs and also assisting private law offices with indigent cases.⁹⁶ One student, Samuel M. Davis, worked for the Vera Institute of Justice in New York City on bail reform issues. When he returned to Oxford, Davis refocused his legal interests to bail reform and published a considerable number of articles in the *Mississippi Law Journal* on the subject. Articles, such as those penned by Davis, angered readers of the *Journal* who attributed the attention paid to civil rights issues to the Yalies. One snide letter captured the wrong of the journal in proposing a new name for the legal publication—"The Yale-hies Sociological Journal" and claimed the publication of the journal should be moved to Washington DC.⁹⁷ Davis was never attacked in the media, but the letters in protest of the *Journal* indicated that trouble was brewing for the law school, once again.

Despite growing opposition to Morse and his Yalies, the dean recruited another Yale graduate to Ole Miss Law for the 1967-68 academic year.⁹⁸ Steven Grove, was hired both to teach in the Law School and also to chair the graduate program in law, which, by that point had grown to include three graduate degrees. Grove, a refugee of Communist Hungary earned his JD at the University of Budapest in 1939. By 1955, he had completed LLM, JSD, and PhD degrees from Yale University. A distinguished professor of law, Grove had been recommended to the university by Myres McDougal.

Of course the only distinction that would bestow Grove in the State of Mississippi was that he was a Yalie.

The three degree options in the law school included the Master of Laws (LLM), the Master of Comparative Law (MCompL), and the Doctor of Laws (JSD). The MCompL degree was designed for students who were graduates of foreign law programs but who had no intentions of practicing or teaching law in the United States. In addition to legal courses, all students in the graduate program were required to take six credit hours of graduate course work in other disciplines offered by the university's graduate school,⁹⁹ a decision that contributed to a increasingly robust education for the students of Ole Miss Law.

As under the leadership of Bob Farley, the law library also was expanded during Morse's administration. Five donations made by the law alumni chapter between 1965 and 1968 were made and helped to improve both the facilities and the holdings of the library. Also, despite the fact that public interest in law school funding was only piqued when contributions were made to support legal programs that were considered by the state's political majority to be liberal, external contributions to the law school increased substantially during the mid-1960s. By 1965, this list included Mississippi Power Company, the International Paper Company, and Ingalls Shipbuilding, all Mississippi companies. Out-of-state contributors included Humble Oil of Houston, Texas; the Gulf, Mobile and Ohio Railway Company of Mobile, Alabama; the Southern Railway System of Washington DC; the United States Fidelity and Guaranty Company of Baltimore, Maryland; the Gulf Oil Company of Texas; and the Cities Service Company of Oklahoma.¹⁰⁰

Unfortunately, the expansion was inadequate, and Morse would need to continue to find funding for the law school. In October 1967, SACS released a report of a study of the law school that had been conducted. The accrediting body noted the large increase in library allocations that had occurred in recent years but found that the library allocations remained insufficient for graduate and faculty research.¹⁰¹ Also, the study found that the physical facilities of the law school were inadequate to accommodate the large student enrollment and recommended that physical facilities be immediately expanded in order to avoid the loss of accreditation and also recommended that the law school refrain from any attempt to increase enrollment until an expansion of the facilities could be completed.

While SACS found the student-to-faculty ratio to be good, it found the junior-to-senior faculty ratio to be discouraging. Morse's attempt to diversify the worldview of the faculty had been accomplished at the expense of the balance of new and experienced faculty members. It was also noted that the junior faculty had a high-turnover rate. The recruiting program seemed to be effective, except in the case of recruiting experienced teachers. However, faculty salaries were lower than the average for the southeast region of the US. Another major problem SACS noted was that only 33.7% of the law school's operating budget was from state allocations and student fees. The remainder was from gifts and grants, that if ceased, would lead to a collapse of Ole Miss Law.

Off campus, students and faculty members joined Aaron Henry in filing a complaint in district court seeking a restraining order against the Board of Trustees, Chancellor Williams, and Vice-Chancellor Bryant which would enjoin each to abandon the speaker ban policy until the court could determine the constitutionality of the ban.¹⁰² Henry, who had previously spoken to Dillinger's law class on campus, was invited to

return to campus by political science professor, Nolan Fortenberry, to speak to students participating in a summer civics institute. The Young Democrats Club had also requested Henry address the campus student organization, but these requests had been denied.

The summer institute originated on campus in the early 1950s¹⁰³ and was being funded through a grant from the US Department of Health, Education and Welfare.¹⁰⁴ Plans for Henry's address at the summer institute had been included in the grant application materials, which the Board of Trustees had reviewed and approved. After the funding was received and the institute planned for the year, Chancellor Williams revoked Henry's invitation to speak.* Injunction would allow Henry to appear before the class as scheduled. The next week, District Court judge Claude Clayton issued the injunction, and Aaron Henry addressed the institute as scheduled.¹⁰⁵

The OEO grant was to terminate on January 31, 1968, but Morse expected that it would be renewed. The OEO confirmed that expectation when it sent a letter of intent to the law school in February to propose a new grant in the amount of \$302,800.¹⁰⁶ The experiment, as far as the OEO was concerned, had been successful, and in the renewal, the grant for the program was to be converted from an experimental grant to a regular contract grant.

* This was just one of numerous rejections of speakers the chancellor had made. In the affidavit of political science professor Russell Barrett, filed during the proceedings of the lawsuit, he identified eleven speaker requests that he had made personally since 1956. All but two were rejected. Affidavit of Russell H. Barrett, PLF Files, Box 79, folder Law School Hearing in Atlanta, 20 March 1969.

Though the OEO was prepared to re-fund the legal aid program, there would have to be some changes. Representatives from OEO made a site visit to evaluate the program and found several problems to which Morse would have to attend. They were dissatisfied with the low number of staff attorneys employed by the program. Because the program was understaffed, a high number of cases had to be outsourced to local attorneys, and the ratio was higher than allowed by the terms of the grant.¹⁰⁷ Also, the OEO was dissatisfied with Aaron Condon's leadership in the program. They found that he had not been following administrative procedures per the terms of the agreement between the university and the OEO. The OEO recommended that Luther McDougal, who was working part-time with the program in his capacity of Director of Continuing Legal Education, be named Director of the program.

Michel Trister and George Strickler had also been working with the legal aid program, and that fall, both had been offered non-academic employment elsewhere but told Dean Morse that they wished to remain professors with the law school as long as they could continue to work part-time with the OEO program.¹⁰⁸ Morse promised the professors that their situations would remain intact as long as they wished to pursue both teaching and legal aid work. By this point, professors Trister and Strickler were devoting increasing amounts of time to the program,¹⁰⁹ and in the Fall 1967 semester, Michael Trister, rather than McDougal, assumed the role of Director of the legal aid program in conjunction with a new seminar he began teaching titled "Social Legislation."¹¹⁰ Both Trister and Strickler were placed on twelve-month contracts, which were to terminate on June 30, 1969.¹¹¹

The success of the aid program was evident as it was expanded to neighboring Marshall County, and an office was established in Holly Springs.¹¹² At this point, the program was renamed the North Mississippi Rural Legal Services Program (NMRLS).¹¹³ Both Trister and Strickler believed that the legal program could be better utilized to pursue justice work, which, at the time, was largely only pursued in the state by civil rights workers. Under Trister's leadership of the program, this mission would be realized, and additional program offices would soon open in Batesville, Greenwood, and West Point. Trister also attended to the complaints made by the OEO inspectors. He added staff but in the process, he also let go of the students who had been hired by Aaron Condon as well as the wives of two students who worked in the legal aid program. While Morse was not involved in the decision, he would later be blamed for taking "food from the mouths of little children, the children of Ole Miss Law students."¹¹⁴

Though Dean Morse continued to face financial problems associated with growth, the growth of the law school during the early years of his deanship was remarkable. The law school had weathered criticisms of the majority opinion in the state for its liberalism in promoting outside ideologies as well as for its increase in black enrollment. However, the criticism would soon come out of the confines of the media, and the space and the place of the law school would again come under violent attack. A new leader for the university would arrive just in time for the attack.

An Eagle Becomes a Rebel

The initial search for Chancellor Williams' replacement resulted in much infighting within the Board of Trustees. The composition of the Board reflected dichotomous views between the J.P. Coleman and Ross Barnett appointees with the Paul

Johnson, Jr. appointees split between the two factions.¹¹⁵ During the search, three candidates, each with supporters on the Board, emerged, but no consensus could be reached regarding any of them. It turned out that another potential candidate, Porter L. Fortune, Jr., proved to be the only viable option. While no member of the Board strongly favored Fortune, he was the only candidate without major objection.¹¹⁶

Fortune had graduated with his undergraduate degree from the University of North Carolina (UNC), his Master's degree from Emory University, and his PhD in American history and political science from UNC.¹¹⁷ At the time of appointment, Fortune was serving as the executive secretary of the service organization, the National Exchange Clubs in Toledo, Ohio. Prior to his move to Ohio, Fortune spent thirteen years in Mississippi, serving as an academic dean and also as dean of the Graduate School of the University of Southern Mississippi and also worked with the Exchange Clubs of Mississippi.

In September 1967, the Board of Trustees elected Porter L. Fortune, Jr. to succeed J.D. Williams as Chancellor of the University of Mississippi.¹¹⁸ When Fortune visited the campus of Ole Miss for, what Chancellor Williams referred to as Fortune's "Freshman orientation,"¹¹⁹ the outgoing Chancellor did not hold back when passing the torch. Williams not only oriented Fortune to the landscape of the campus, he oriented the chancellor-elect to the space between the university and the Board. Williams told Fortune that only two Chancellors had ever retired gracefully from the institution. According to Williams, everyone else had been fired.

On February 1, 1968, Porter L. Fortune, Jr. officially assumed his duties as the thirteenth chancellor of Ole Miss.¹²⁰ In a statement to the press, Fortune claimed that his

pressing goals first were to “strengthen the school’s national image and to secure funds for campus growth.”¹²¹ His plans for growth would be stalled for some time, as he would spend a large portion of his time fighting the next great battle of Ole Miss Law.

A Battle Brews and Legal Aid is Destroyed

Shortly after assuming the role, the new chancellor was immediately met with numerous complaints about the program.¹²² Complaints were made by private citizens, law enforcement officials, practicing attorneys, alumni, faculty and staff members of Ole Miss, members of the Board of Trustees, state legislators, the Law School Liaison Committee of the State Bar, and Governor John Bell Williams. The complaints ranged in nature from concerns that staff members were not following the established rules and regulations for the program, to allegations that personnel of the program were actively participating in “civil rights agitation.”¹²³ So, Chancellor Fortune requested a report from Vice Chancellor Bryant regarding the legal aid program.

In April, E.R. Jobe, the Executive Secretary of the Board of Trustees, requested information regarding the operations of the legal aid program.¹²⁴ A few days later, Morse was summoned to Jackson, and as with the last time he was called to the capital, he was given no indication as to what the meeting would entail.* When he arrived in Jackson, Morse found himself before the State Senate Committee on Colleges and Universities,

* The transcript of the hearing supports Morse’s claim, as he mentioned several times during questioning that he had no notes regarding the program to which to refer. So, he had to provide data regarding the program from memory alone. See Morse, Interview; Hearing Before Universities and Colleges, PLF Files, Box 78, Law School – Copied Material, 22 April 1968.

and a formal hearing was held regarding the OEO program. Details of this hearing were not released to the press, but according to the transcript of the meeting, the purpose was to discuss “away from the press and everyone else, some things that have purportedly been happening at Ole Miss.”¹²⁵ Dean Morse and Chancellor Fortune attended the hearing on behalf of the law school along with E.R. Jobe. M.M. Roberts was not in attendance but had previously furnished Senator William E. Corr, presiding officer of the committee, with written statements regarding the law school’s legal aid program.

In a line of questioning that treated the dean in the manner of a hostile witness, members of the committee first questioned Morse about the organization and structure of the legal aid program. Over the course of several separate lines of questioning, Morse explained how the program had come into existence and how it operated on a day-to-day basis. The senators were specifically interested in the role of the program in informing people about their civil and constitutional rights. Morse claimed that during the previous election that there had been requests made by citizens to inform them about voting procedures. So, the legal aid office set up meetings that were open to the public. According to Morse, all attendees were black, and all of the candidates who were running for an office also had attended the meetings.¹²⁶

As the inquisition dragged on, the committee members also inquired specifically about the employment status of Michael Trister, George Strickler, and Luther McDougal, questioning how much of their salaries were paid by the state and how much was paid by the OEO grant. It seems that because the full paychecks for all three were administered through the university, members of the Senate were under the impression that the state was funding the full salary of the professors, even though they were spending part of their

time working for the legal aid program. Morse explained that their salaries were paid out of a combination of state and grant funds. He also noted that the NMRLS office provided work-study opportunities for between fifty and sixty law students at Ole Miss per term. The money earned by students' participation in the program, explained Morse, helped to defray the cost of their legal education in addition to providing them with legal training. Further, the program had allowed students to clerk for judges and district attorneys so that they would have a full range of both criminal and civil experiences.

Senator Corr questioned Morse about Michael Trister's involvement in a demonstration that had taken place in a public parking lot in Oxford, asking Morse pointedly, "do you approve of that? . . . Would you approve of one of your law professors meeting with any activist group, whether it's to the right or to the left, presenting demands to be made on an institution of the State of Mississippi, and also upon a city. Do you think that's within the scope of activities of the University Law School and the Legal services organization?"¹²⁷ Morse stated that he did not think that such an action was within the rights of the law school but that it may be construed by some to be within the rights of the legal aid program. In his view, the law school and the legal aid program were separate entities, even if grants that funded the legal aid program were funneled through the university. It also was in his opinion that to try to view and treat the two as the same would cause trouble, and he was right. It was the very reason he had been called to Jackson. The legal aid program was stirring the racial space in the state by assisting black clients and educating blacks about their voting rights. The program was effective, and the state's political leaders were nervous that the minority opinion in the state was reaching a capacity that would actually disrupt the space.

Senator Corr believed that Morse actually had proven that the law school and the aid program were intertwined. He also claimed that his constituents from Panola County had complained to him that law professors had visited towns in the county for the purpose of encouraging the residents to participate in boycotts of local stores. Morse stated that he had heard similar complaints and had discussed them with Trister, Strickler, McDougal, and other staff members from the legal aid program and that no one had any knowledge that such had taken place in Panola County^{*} or in any other county that within the jurisdiction of the program.¹²⁸

Corr also referred to an instance when, supposedly, a professor had approached people in the parking lot of Boles' Shoe Shop and Café in Oxford and instructed them as to the appropriate way to conduct a protest march and distributed a list of demands that should be made of the City of Oxford. The senator claimed that the incident had been reported to him "based upon information procured by the State of Mississippi through its police powers,"¹²⁹ and Corr asked Morse if he thought that directing protests was an appropriate function of the legal program.

Morse had heard the rumor of the demonstration from the Chief of Police of Oxford and that Michael Trister had specifically been named. In fact, the police chief told Morse that he had seen Trister himself. However, Morse reported to the committee that he and the Chancellor had questioned the professors who were associated with the legal program and that no one from the law school had participated in any such event,

^{*} By that point, the program was operating in Lafayette, Marshall, and Benton Counties but not in Panola County.

including the one in question at Boles' Shoe Shop and Café. In fact, Trister had been in Memphis during the weekend in question and had produced documentation of his trip.¹³⁰

While Senator Corr seemed to be rather interested in the legal aid program's interest in civil rights issues, other members of the committee were interested more in the perceived legal and ethical aspects of the program. During a discussion of the finances of the program, Morse explained that the majority of funding paid to attorneys by the legal aid program was for domestic cases, such as divorce. One Senator (unnamed), expressed great discontent with the program for assisting with divorces, stating, that it was not a proper function of an agent of the state to determine whether a woman was married to a man that was "sorry."¹³¹ Yet, Morse pointed out that in order for a woman to be granted a divorce by the State of Mississippi, which was precisely what she must prove. He also explained that it was not the goal of the program to seek divorces specifically for women, though a large proportion of the cases handled by the program were on behalf of women. However, situations where a divorce was requested, and both parties were indigent, the legal aid program provided representation for both parties.

Members of the committee also expressed concerns with the fact that the legal aid program advanced court fees on behalf of its clients. At the time, a state statute prohibited an attorney from paying court fees for clients. So, the legality of the financial service being provided to clients was in question. Morse reasoned that the program was not in violation of the statute because the fees were being paid from an entity and not an individual attorney.¹³²

The Senate committee then turned to ethical concerns surrounding the program. First was the perception that solicitation of clients by the legal aid program was unethical.

At the time, solicitation of clientele for profit was considered to be unethical by the ABA, and this worried the senators on the committee. Also, some senators stated that they had received complaints that residents of their home counties had received letters from the legal aid program claiming that someone in the program had learned that a domestic dispute had taken place in the citizens' homes and that the program was available to assist them.¹³³

Of course, Morse, in planning the program, had already looked into the position of the ABA regarding the advertisement of free legal services. He confirmed that the ABA distinguished informing indigent clients of free legal services from acts of "champerty and maintenance."^{*} Thus, advertising the program was an act of education and not a violation of professional ethics. He also seemed to be unaware of any complaints regarding marketing of the program. Morse stated that he had not seen any such letters and if the senators had reported "accurately,"¹³⁴ to send the letters to the dean's office so that he could follow up with the program. To this, no member of the committee responded, and the line of questioning changed immediately.

Another committee member (unnamed in the transcript) told Morse that the legislature had considered enacting a rule that prohibits professors of Ole Miss law from

^{*} *Champerty* and *Maintenance* are terms that date to British Common Law. Prior to the Criminal Law Act of 1967, they were considered to be torts and crimes under British Law. *Champerty* occurs when a person advancing a lawsuit, such as an attorney, is paid out of the settlement of the lawsuit. *Maintenance* occurs when a person advances or supports a lawsuit without just cause. In the US, codes of professional ethics preclude an attorney from committing either. See "Maintenance and Champerty," 2006.

suing the state or University of Mississippi and asked Morse for his thoughts. Morse responded that he believed such an act to “be most unwise, personally.”¹³⁵ He also expressed strong doubt toward its constitutionality. Morse went on to clarify that he was not in favor of arbitrary lawsuits but if he committed an act, for which another was due redress, he believed that the individual should have the right to seek such. As if things were not already tense in the room, Senator Corr then asked the dean, “You would agree, though, that the Legislature, with the Governor consenting, could prevent you from practicing law entirely?” Morse remained calm and agreed that it might be possible if applied equally to all professions, but that targeted rules would constitute a violation of equal protection.*

In a subdued manner, Senator Corr also suggested that the legislature could deal with the problem of the legal aid program indirectly, by moving its location to Jackson. This, as it turned out, had been an active topic of discussion among state legislators.¹³⁶ In fact, the legislature had also considered revoking diploma privileges from Ole Miss graduates.[†] However, Morse did not respond further. Though it had been expressed that the meeting was to be kept confidential, details were leaked to *The Clarion Ledger*, placing the law school, once again, on watch by the state.¹³⁷

* It is not clear in the transcript but seems as if Morse was responding to the question regarding prohibiting law professors from suing the state of the university and not to the question of having him disbarred.

[†] This would disable a graduate of Ole Miss from practicing in the state, as an 1897 statute extended the privilege of practice to graduates of Ole Miss Law.

The elephant in the room that day was the fact that governors did not have veto power over OEO funding if the grants were administered directly through academic institutions.¹³⁸ This rendered state governments with little power over the operation of programs funded by the grants, and especially in Mississippi, any lack of power in deciding issues tied to race was a threat to the political space of the state. This, however, would only briefly stall the houses of the legislature, as they would soon identify a solution to their problem.

The Mississippi Bar too found discontent with the legal aid program,¹³⁹ and rather than relying on the legislature for action, the bar association passed a series of resolutions that had the potential to render poverty lawyers unable to practice in the state. The first of these came from the Lafayette County branch of the bar association. The resolution expressed disapproval of the Lafayette County Legal Services program (by that point, the program was operating under a different name) and urged its members to not accept work from the legal aid offices.¹⁴⁰ While the resolution did not specifically threat disbarment, the implication was strong. Troubles in Ole Miss Law due to its association with NMRLS had been reported to the media, and attorneys were becoming increasingly uncomfortable with having any association with the program.

Despite this, Michael Trister continued with his dedication to racial justice, and the aid program began to assist in filing desegregation lawsuits. In May 1968, attorneys working for the North Mississippi Rural Legal Services office in Oxford filed a desegregation lawsuit with the US District Court of the Northern District of Mississippi involving the desegregation of both the Holly Springs and Marshall County school

districts.* The program also participated in fighting the one-year residency requirement for recipients of state-funded welfare.¹⁴¹ Of course, the desegregation suit hit the press, and shortly after the news broke, Dean Morse failed to receive the customary speaking invitation to the annual law school alumni luncheon.¹⁴²

Josh Morse, concerned that the legislature might close the law school, had already begun to identify a new sponsor for the program.¹⁴³ In order for the legal program to continue to receive funding from the OEO, an academic institution had to sponsor the program. With Michael Trister's help, Morse was able to quietly coordinate transferring the program from Ole Miss to the nearby black school, Mary Holmes Junior College. There is no evidence that he told anyone other than Trister about his plan.

Previous attempts to stop the progression of the law school had not spilled the blood of the legal profession itself. This time, however, things were different. As the situation could no longer be contained within in the borders of the university, the move to attack the legal profession was necessary in the fight to preserve the racial space of the state. Thus, the events of the early months of 1968 threatened not only Ole Miss Law as a place of legal education but also the place of law as a profession in the state. Given the national recognition the school had received and the growing force of the legal aid program in the desegregation of elementary and secondary schools in the state, it had

* See Clarence Anthony, et al., Plaintiffs-appellants, v. Marshall County Board of Education, et al., Defendants-appellees, 409 F.2d 1287 (1969) US Court of Appeals for the Fifth Circuit - 409 F.2d 1287 (1969) April 15, 1969.

become clear that the Ole Miss Law School had evolved far beyond its intended purpose of maintaining status quo in the state's political space. Ole Miss Law had become an active participant in the evolution of the state's racial identity.

Conditions Worsen at Ole Miss and in the State

While the public had largely shifted its focus toward the OEO program, Morse continued to work with the Ford Foundation to establish scholarships for law students.¹⁴⁴ At the end of each academic year, he requested permission to transfer unexpended grant money into a scholarship fund. In doing so, Morse managed to allocate an additional \$10,000 in unexpended funds to scholarships for the 1967-68 year.¹⁴⁵ Then, for the 1968-69 year, this enabled Morse to grant \$20,000 in scholarship money to law students from the Foundation grant. This unnoticed move allowed for additional scholarships to be offered to poor deserving students, which would contribute to the diversification of the class structure of the students of Ole Miss Law.

On May 8, 1968, the University of Mississippi chapter of the AAUP passed, by resolution, a recommendation to the university administration that the 1965 AAUP "Statement on the Standards for Notice of Nonreappointment" be adopted.¹⁴⁶ Additionally, the chapter recommended that the administration distribute to all faculty, department chairmen, and deans a copy of the 1962 Board policy requiring that "notice of termination to a person without continuing employment be given at least three months prior to the expiration date of the then current contract."¹⁴⁷

The policy had not been incorporated into the faculty handbook at that point, and it was in the opinion of the AAUP chapter members that most faculty members were unaware of the policy. Untenured faculty members in the university had become uneasy

regarding renewals of their contracts, and it was the position of the AAUP members that if educated about the policy, anxieties would be, at least somewhat, alleviated. Chancellor Fortune agreed to take the recommendation into consideration, and he felt that the time had come to closely examine all personnel policies of the institution.¹⁴⁸ This was a wise move for the chancellor because soon enough, policy and practice would be called into question by both the AAUP and by the AALS.

At the end of the month, E.R. Jobe, sent an inquiry to Chancellor Fortune to determine whether Ole Miss Law faculty were involved in the lawsuit to desegregate Holly Springs and Marshall County schools. Jobe also requested from Chancellor Fortune information regarding the financial connection between the university and the lawsuit.¹⁴⁹ On the same day, the Chancellor ordered Dean Morse to not apply for a renewal of the OEO project and to “extricate the university from the program at the earliest possible date without breaching the term of the grant agreement.”¹⁵⁰

Fortune responded to Jobe’s request confirming that no faculty members were named as counsel in the complaint but that the Office of Economic Opportunity did employ staff members who were involved in the case.¹⁵¹ Fortune also notified Jobe and M.M. Roberts that he had ordered Morse to not apply for a renewal of the OEO grant,¹⁵² but in fact, two weeks later, Fortune himself notified the national OEO office of termination of the university’s involvement with the program.¹⁵³ According to Fortune, he never received a response from the OEO national office.¹⁵⁴ Of course, that did not matter. The campus presence of the legal services program simply ceased to exist.

Though the official connection between the program and the law school had been severed, the professors assisting with the program did not wish to sever their ties.

Because of this, Dean Morse recommended to Chancellor Fortune that the professors be given two contract options, one for full-time employment and one for part-time employment. The latter would allow them to continue to work for the legal aid program.¹⁵⁵ Morse did not want to break the promise he had made to the professors that they would be allowed to both work for the program and teach in the law school. Morse did not want to lose the law professors, and as the chancellor had terminated the OEO contract, the nature of the professors' employment contracts too would require adjustments.

By the time the North Mississippi Rural Legal Services program was forced out of Ole Miss, the Civil Rights movement in the state was in full swing. John Bell Williams, who stood strong against the *Black Monday* decision, had entered the governor's mansion and would soon be forced to desegregate Mississippi's primary and secondary schools. The KKK had reorganized, and violence was sweeping the state. While many in the state continued to voice the majority opinion that had been held for so long in the state, others were turned away from the majority by the violence and turmoil. They may have continued for some time to identify with political place of the state, but their personal opinions created an inexact space, unfamiliar to Mississippi. There was much uncertainty as to what the racial space in the state would be in the future or how the change in the space would affect the trajectory of the political place of the state, but the evidence shows that the space was no longer the same.

While the absolute number of black students was small, Ole Miss Law was no longer a white law school. Thus, the educational place of Ole Miss Law too had changed. Also, the students of the law school were given access to experiences that presented them

with an alternative worldview. The media chose to focus on the NMRLS program and the Yalies, but students were also leaving the state for internships. In doing so, they were experiencing other places, and those experiences contributed to an evolution in their individual identities. There had been a slow, persistent evolution of identities in the law school for some time, but by this point in time, the individual changes collectively had become large enough to act upon the space of the law school, but the evolution did not stop, as the space acted back upon the place of the law school. Law student David Clark represents this well. Progressive ideals were present in the law school, but so remained representatives of white racial ideology, and the two would co-mingle, co-struggle, and co-construct the place and the space of Ole Miss Law.

CHAPTER VII

THE CHANGING OF THE GUARD

“There has been a temporary setback, but the Ole Miss Law School and the entire university will be better in the long run because of what has happened here.”

Kenneth Vinson

Inquisition

Members of the Mississippi Senate no longer had confidence in the Board to “cope with the situation”¹ in Oxford. So, in June 1968, a formal legislative investigation commenced to explore the relationship between Ole Miss Law and the legal aid program.² There are, however, no records of the meeting of this committee. Also, Governor John Bell Williams invoked his authority under a law enacted in 1892 and commissioned J.K. Larsen of the State Department of Audit to examine the financial records of the law school that were related to the legal aid program.³ The announcement stirred members of the press, but the chancellor released a statement to calm the masses that type of audit being conducted was typical. He also attested that he did not anticipate the auditor would find anything unusual regarding the financing of the legal aid program. This seemed to work, and newspapers dropped the matter from their pages.

The same week, state house representatives introduced a bill to establish an ad hoc committee to investigate the Law School. Chancellor Fortune went on record and announced to the press that he had asked OEO to sever the relationship with the university. As the state began to stir yet again, the chair of the Senate Universities and Colleges Committee, Senator Bill Corr, told the *Jackson Daily News* that blame for the controversy lied mostly with Dean Morse.⁴ Morse and Fortune then were called, yet

again, to Jackson to testify in a closed-door exploratory meeting with the House Universities and Colleges Committee, chaired by Representative Horace Harned. The house committee, however, did not ambush Morse as the senate had previously done. Also, they were not combative. During the meeting, Dean Morse promised the committee that no member of the law faculty would be associated with the OEO program past the termination of the contract at the end of June.⁵ The house was pacified, and the committee closed its investigation.

However, The Board of Trustees, not counting on Morse to keep his promise to the House, took action. The Board enacted a policy that prohibited after June 30, any person who was employed for pay with the legal aid program to hold an appointment at Ole Miss Law. The language of the policy allowed for summary dismissal of faculty without due process.⁶ Of course, the new policy did not sit well with the law faculty. Later that month, they voted unanimously in favor of a resolution that the law school would work with the faculty of the law school in offering joint employment to those who wanted to continue to assist the legal aid program.⁷ When presented the resolution, Chancellor Fortune replied very simply to Morse that faculty “will no longer be associated with the OEO program after its termination.”⁸

Dedicated to finding a way for the faculty to continue to work with the legal aid program, Morse reached out again to the chancellor to seek clarification of how the policy related to an employee’s use of their free time. The chancellor responded, in writing to Morse, that neither the Board nor the university “has anything whatsoever to say about activities of University employees in the use of their free time in activities for which they are not compensated.”⁹ It seemed then, that the professors who were willing

to work in their free time would be allowed to do so. However, Morse wanted to make certain that this would be the case.

On July 8, Morse met with Chancellor Fortune and Vice-Chancellor Bryant to discuss logistical issues surrounding the termination of the OEO grant.¹⁰ He recommended that law faculty be able to assume unpaid positions with the program if they conducted their business outside of the business hours of the university. In spite of what the chancellor had previously told Morse, this time, he affirmed that all ties, paid or otherwise, be severed with the program. He also told Morse that any employee who chose to work for the legal aid program would not be allowed to teach in the law school. However, two days later, the Chancellor denied the exchange in written correspondence to Morse and merely referred him to the Board policy regarding outside employment, which had been instituted in 1966.¹¹ This left Morse with no leadership from the administration in interpreting the Board policy.

McDougal, Strickler, and Trister each had been offered full-time appointments, in writing, for the 1968-69 academic year as well as the 1969 summer session at a rate of \$15,000, which included a typical raise, for the academic year.¹² They were offered the standard salary at the time of \$3000 for the Summer 1969 term and were also offered \$1000 per month for the months of July and August 1968 with the stipulation that they discontinue their legal services to the North Mississippi Rural Legal Aid Program. They were required to submit a decision in writing by June 29, 1968, which none of them did.¹³

After Morse's failed effort of coordinating with the chancellor, Luther McDougal requested a meeting with Morse and the chancellor to go over the details of the offer.¹⁴ McDougal wanted to appeal to the chancellor to allow him to work in his free time for

the legal aid program. He was willing to stop working for the program but wanted to remain just long enough to close the cases to which he was already obligated. The chancellor told McDougal that if the university employed him full-time, then he would be free to do so.

Morse also informed McDougal that the OEO was to reimburse him for work he had conducted for the legal program during the 1967-68 school year. Unlike Trister and Strickler, who had received half of their salary from the program in compensation for having half of their contract duties assigned directly to the program, McDougal had maintained full-time employment as law faculty at Ole Miss during the year. Effectively, he had worked a contract overload without additional pay from the OEO grant. Because of this, the OEO agreed to give McDougal back-pay for his service.¹⁵

Concerned for Trister and Strickler, McDougal also inquired about their salaries and employment statuses. Chancellor Fortune confirmed that the same offer of employment had been extended to them. He told McDougal that as relationship between the legal aid program and the university had also terminated, there was no longer a reason to make offers of employment based upon anything other than full-time service to the institution. During the meeting, McDougal informed the others present that Trister and Strickler intended to file a lawsuit against the university and had obtained counsel. Also, McDougal claimed that the two professors were going to report the university to accrediting bodies.

McDougal's information was accurate. Trister and Strickler contacted the national office of the AAUP for assistance regarding their employment offers.¹⁶ On two occasions that month, the AAUP reached out to Fortune for information, but he refrained from

responding for more than a month.¹⁷ Then, on July 17, Trister and Strickler together met with Chancellor Fortune to discuss their employment with Ole Miss Law, but the chancellor told the two professors nothing more than he had told McDougal.

Luther McDougal, opted to remain on the faculty full-time, but by July 18, Trister and Strickler had not notified the administration of a decision. So, they were given until July 22 to decide. On that date, Michael Trister formally declined the offer of employment.¹⁸ In his letter, Trister stated that it was his perception that the university had departed from its original agreement with him. He also stated that he had to complete his obligations with the OEO program and could not comply with the timeline required of the employment offer. Most important to Trister, was that the offer infringed upon his academic freedom and rights to expression. He noted that other faculty members were engaged in outside employment, including in private legal practices, and he believed that he was singled out because the work he was performing was conducted through the OEO program, a program that had brought attention to the law school because the work of the program was “on behalf of poor people and unpopular causes.”¹⁹

Likewise, on the same day, George Strickler formally declined his own offer of employment,²⁰ which suggested somewhat more subtly than Trister’s letter, the university had failed to honor his employment contract. In addition, Strickler pointed out that there had been no complaints regarding the quality of his instruction. Thus, no insinuations that his work with the legal aid program had interfered with his work at the law school could be made. He also pointed out that abandoning clients, as required by the terms of the employment offer, would violate his oath with the Mississippi Bar. That was something that George Strickler was not willing to do.

Though Trister and Strickler had formally declined the offers of employment, and were not teaching their scheduled summer courses,^{*} they immediately did not vacate their offices, and on July 25, they both received formal notices from John Bunkley, Acting Dean,[†] that demanded the professors vacate their offices by July 27.²¹ The next day, Trister and Strickler found their campus mailboxes closed.²² Bunkley notified the chancellor on July 30 that the men still had not vacated their offices.²³ As it turned out, that very day, Trister and Strickler were busy filing a lawsuit. They would not give up on trying to work both for the university and for the legal aid program simultaneously. They contacted the ABA to request the organization join them in filing briefs for their lawsuit, but the ABA decided to stay out of the matter.²⁴ So, Trister and Strickler proceeded without assistance.

Chancellor Fortune, Dean Morse, and all Board members were all named in the lawsuit. A few weeks later, Morse requested of the chancellor that the university obtain legal counsel on his behalf.²⁵ The law committee of the Board of Trustees obtained representation for Morse and Fortune. Initially, they hired local attorney Thomas Etheridge to represent Morse,²⁶ but the district court dismissed the dean from the lawsuit

^{*} Both professors were to teach two courses during the summer term, which began in June. It is not clear whether they met their classes at all, but by July 15, it had come to the attention of the vice chancellor that the courses were not being taught. So he directed Morse find instructors to fill the void. See Bryant to Morse, PLF Files, Box 78, Folder Law School Copied Material, 15 Jul 1968.

[†] By this point, Morse had left for a leave of absence.

with the approval of both plaintiffs. Clarksdale attorneys and Ole Miss Law alumni, Chester Curtis and Semmes Luckett, represented Chancellor Fortune.²⁷

The trial court heard the case on August 28 and 29, 1968.²⁸ The defense for Trister and Strickler argued that the professors' civil rights had been violated when they were not allowed to both teach part-time for the university while working part-time for the legal services program. The trial court, however, sided with the university, finding:

1. The plaintiffs have no exercise over the university administration in terminating the OEO legal aid program;
2. The constitutional rights of the plaintiffs were not violated when the university exercised its right to terminate the program;
3. The court cannot compel the university to continue the program;
4. Having refused the offer of employment extended to them in June 1968, the plaintiffs were no longer university employees; and
5. The evidence revealed that the university had not acted in an arbitrary or capricious manner.

Thus, the court reasoned it had no authority to compel the university to act upon the complaint entered by the plaintiffs.*

Trister and Strickler immediately appealed the decision to the US Fifth Circuit Court of Appeals and filed for summary reversal and an injunction to allow them to

* The trial court judge exercised the right of the court to not issue Findings of Fact and Conclusions of Law; thus there is no published record of the court's rationale. The Fifth Circuit Court of Appeals later published these facts and conclusions as interpreted from the district court record.

continue to work for both the university and the legal aid program, pending the outcome of their appeal.²⁹ The defense contended that the complaint had not asked court to force the university to continue the OEO program but to force the university to equitably enforce its own outside employment policy. The Fifth Circuit Court declined both requests. It would be a year before the circuit court would enter a decision regarding Trister and Strickler. In the meantime, George Strickler left the state entirely and moved to New Orleans to become a staff member of the Lawyers' Constitutional Defense Committee.³⁰ Michael Trister remained with the legal aid program, which by that time had moved its headquarters from the campus of Ole Miss to its new home at Mary Holmes Junior College.

Though they anticipated appeal, the named defendants in the lawsuit were relieved. Particularly relieved was M.M. Roberts, who viewed the victory as one for "controls by University and College heads in institutions of higher learning in [the] state." It was the opinion of Roberts that the lawsuit was an indication that administrative heads of the institutions of the state needed to exercise a greater level of control over "deans and other subordinates."³¹ Roberts' clearly did not view the Board to be in a space of collaboration or cooperation with the academy, and the strong blow of the lawsuit had the potential to change the power of the Board in controlling the state's institutions.

These events did not sit well with the law faculty. Professor Bradley, acting as ad hoc faculty secretary, wrote to Fortune about the situation.³² The faculty were concerned with the fact that the professors had been forced to decide between termination of a relationship with either the OEO or the university premature of the contract fulfillment. For the law school, this meant abandoning teaching duties midsession and leaving eighty

students who needed to complete the courses being taught by the professors to graduate that August. The faculty believed that the only option this left the law school was to, “lower its standards (by giving credit for untaught courses) to accommodate a political firing of other faculty members.”³³ For the OEO program, it was the view of the faculty that the professors were being asked to abandon their clients. Above all, Bradley reasoned, Trister, Strickler, and McDougal were also being asked to abandon their civil liberties as well as their academic freedom. However, the faculty plea fell on deaf ears. Chancellor Fortune did not respond.

So, members of the faculty reached out to the AALS and the AAUP for assistance. In July 1968, the AALS notified Chancellor Fortune via telegram that the organization joined the law faculty in their complaint regarding the employment policy enacted that summer and followed with a formal discussion that had been provided to them by the law faculty.³⁴ To the AALS, it appeared that the Board employment policy had been applied in a discriminatory manner against faculty in that the university failed to demonstrate that the work of the professors with the legal aid program had prevented them from completing satisfactory work in the law school. The AALS also disapproved of the fact that Trister and Strickler had not been granted due process before the termination of their employment. Further, members of the faculty law body had not been involved in the process whatsoever.

These events caused Ole Miss to, once again, gain recognition by *Time* magazine. Reflected in the title, “New Misery at Ole Miss,” this time, the story was not uplifting as the prior report on the law school. Rather, the article reported the “mossback . . . vengeance” that led to the terminations of Michael Trister and George Strickler. Trister,

eloquently capturing the previous three years at the law school, told the magazine, “The great experiment at the law school is almost dead.”³⁵

Ken Vinson, law school professor and the president of the campus chapter of the AAUP, contacted the national office of the AAUP and requested a formal investigation into the law school and university for violations of academic freedom related to the “axing”³⁶ of Trister, Strickler, and McDougal. Vinson himself was not directly involved with the OEO program work but served on the program’s Board of Directors and provided pro bono services to the program, as did other professors. The primary complaint was that the chancellor’s policy singled out the law school. No other faculty members that held part-time employment away from campus were included. Vinson also identified Josh Morse as a “friend of the AAUP in this matter.”³⁷ The initial findings of the AAUP mirrored those of the AALS. The AAUP found that the policy allowed for summary dismissal of faculty, which denied the professors the right to due process, and was a direct violation of AAUP principles.³⁸

Despite increasing unrest among the law faculty, the law school continued to excel. By the fall term of 1968, the law school had reached the highest enrollment yet of black students in non-traditionally black colleges in the nation. However, faculty members were leaving the university. Professor Custy left to accept a position as Dean of the Law School of Willamette University in Oregon. Professor McLane returned to his home state, California, to enter into private practice, and Dellinger left to clerk for US Supreme Court Justice Hugo Black.³⁹

Balancing the exodus, Professor William Champion returned to campus from a year of graduate study at Harvard University Law along with six new full-time and four

part-time faculty members. The increasingly robust number of faculty members in the law school, enabled Ole Miss to boast one of the lowest faculty-student ratios in the nation, despite a large enrollment of 440 law students.⁴⁰

That fall, the university chapter of the AAUP requested a meeting with Chancellor Fortune to discuss and clarify the decision of the administration regarding the contracts of Trister and Strickler, which the chapter viewed as a firing.⁴¹ The Chancellor declined a meeting and referred Ken Vinson to the correspondence with the General Secretary of the AAUPs national office. So, the university chapter then passed a resolution that called for Chancellor Fortune to immediately reverse his decision to remove part-time faculty from the payroll who participated in the legal aid program, finding the policy to be “deplorable”⁴² and made without any academic reasoning. The resolution stated that the Chancellor’s policy was made in response to political interference and suggested that economic threats also played a role in the policy and that the policy itself was a violation of a professor’s academic freedom.

In December that year, representatives of the AALS and AAUP visited the campus of Ole Miss on a joint “fact-finding mission.”⁴³ Representing the AALS were Dean Lindsey Cowen of the University of Georgia School of Law, and Professor Dallas Sands of the University of Alabama School of Law represented the AAUP. The report of Cowen’s initial findings prompted a recommendation to the AALS for a formal investigation of the Ole Miss Law, which was adopted during the December 1968 annual meeting of the organization. The AALS and AAUP began making plans to visit campus in the coming year. Josh Morse would remain involved in the investigation, but it would not be as the Dean of Ole Miss Law. Once again, an era was to come to an end in the

deanship of Ole Miss Law. Dean Joshua Morse III resigned his appointment in the law school. He had seen enough action on the battlefield and had accepted the deanship of the law school at Florida State University. The time had come for a changing of the guard.

By this point, the fallout of the attacks on the law school would take precedent over growth and expansion in the law school. In fact, the threats to accreditation would, at least for a time, supersede the issue of race. The actions of the AALS and AAUP would become the focal point, not only for the law school, but also for the rest of the state, as media outlets closely followed the investigations and actions of the organizations. However, the law school also had to attend to another issue, naming the successor of Josh Morse III.

A New Dean is Named—Again

In early April 1969, Chancellor Fortune requested a recommendation for the nomination for Dean Morse's successor from the law school faculty and pledged funding to make possible a nation-wide search. Fortune requested that the faculty select a list of two "outsiders" for consideration in addition to two "insiders."⁴⁴ Chancellor Fortune assured Morse that the faculty's recommendation would be given "careful consideration"⁴⁵ and told the search committee that he would not recommend an appointment to the Board of Trustees without the support of the law faculty.⁴⁶

The faculty then commenced the selection process and first elected a search committee via ballot, which included: Professor John R. Bradley, Chairman, Professor Larry L. Case, Professor Walter E. Chryst, Professor Luther L. McDougal, and Professor Page Sharp.⁴⁷ The law faculty also requested Chester Curtis, President of the Mississippi State Bar; William N. Ethridge, Jr., Chief Justice of the Mississippi Supreme Court;

Samuel M. Davis, Editor in Chief of the *Mississippi Law Journal*; and Thomas McWilliams, President of the Law School Student Body, serve as consultants to the search committee.⁴⁸

The committee first distributed a questionnaire to the faculty in order to determine the general disposition of the faculty body regarding an outside search for the law school dean.⁴⁹ In a 13-3 vote, the faculty strongly supported selection of the dean-elect from outside of the university. Because the chancellor had given the selection committee only until the end of May to make a recommendation, it was difficult for committee members to conduct an exhaustive search. They were able to identify a small pool of candidates that were deemed cursorily to be exceptional, but only one of the identified potential candidates was available to move quickly enough to be in Oxford for the 1969-70 academic year. Because of this, the committee discussed the possibility of appointing an acting dean. Fortune was amenable to the recommendation but asked that the faculty enter two separate votes: one for the selection of an acting dean, and one for the selection of dean-elect.

The one outsider who was available, James Patrick Williams, was invited to campus to meet with the faculty.⁵⁰ After Williams' visit, the committee decided to include him on the voting ballot. Additionally, John Bradley heard from rumor that the chancellor was considering Clarksdale attorney and State Bar president, Chester Curtis, who was serving on the decanal nominating committee. Bradley requested that the Chancellor submit Curtis formally for consideration by the faculty so that the faculty procedures complied with AALS recommendations.⁵¹ So, the Chancellor submitted Curtis for consideration as well as Professor Jerome Leavell of the University of

Arkansas Law School.⁵² From the Ole Miss law faculty, Fortune requested Professors Joel Blass, J.W. Bunkley, George Stengel, and Parham Williams be considered.

According reports from newspapers, Curtis' name had been submitted to the Chancellor by a member of the Board of Trustees.⁵³ The media considered Curtis to be the best candidate to pacify all parties interested in the deanship at Ole Miss.⁵⁴ Law professor Ken Vinson called Curtis the Board's "antidote to Morse."⁵⁵ Curtis had supported William Winter's gubernatorial campaign in 1967, but he also supported Barry Goldwater in 1964. Even Senators James Eastland and John Stennis supported the nomination of Curtis to a federal district court seat (though the rest of Washington declined). Further advancing the nomination of Curtis was the fact that he would be readily accepted by the State Bar as the law school's new dean.⁵⁶

It is not clear whether the chancellor knew Jerome Leavell,^{*} but he had the strongest support from attorneys, not only across the state but from across the country. Leavell received both his undergraduate and law degrees from Ole Miss and completed his advanced study in law at Yale University, where he too was a Sterling Fellow.⁵⁷ He was an Ole Miss legacy, as his grandfather, Robert Jerome Farley and uncle, Robert J. Farley, Jr. were previous law school deans. Also, a building on the Ole Miss Campus, Leavell Hall was named after a relative. Leavell also had the support of political figures,

^{*} It is know that Leavell was in attendance at the inauguration of the chancellor. Though it would not have been uncustomary for him to attend even if he did not know the chancellor personally. See McLemore to Bryant, PLF Files, Box 78, Folder LAW SCHOOL: Material for American Association of Law Schools Meeting in St. Louis August 6, 1970, May 14, 1969.

including the Lieutenant Governor of Mississippi, Charles L. Sullivan,⁵⁸ the Assistant Attorney General of Arkansas, Guy N. Rogers,⁵⁹ and former Arkansas Governor Oral Faubus.⁶⁰

Leavell, however, was not unopposed. While smaller in number, the opposition to the appointment of Leavell was loud. To many prominent figures within the state, especially practicing attorneys, Leavell had the same liberal leanings to which they attributed the problems the law school had faced under the leadership of the prior two deans, and many had tired of their law school's progressive era,⁶¹ especially since the profession itself had come under pressures by the Bar.

In addition to support for Leavell, many attorneys also wrote to Chancellor Fortune in support of the nomination of Parham Williams, Jr., who at the time was serving as the law school's assistant dean. Williams had joined the law faculty in 1963. Like so many members of the Ole Miss Law, he too had attended Yale University on a Sterling Fellowship during his sophomore year on the faculty.⁶² He also had served as an administrative fellow at New York University in 1967. Supporters of Williams found him to be tactful and approachable, even in dealing with the most conservative members of the legislature and the State Bar.⁶³

M.M. Roberts, who, by this point, had become the chairman of the Board of Trustees, received a large number of recommendations for Dean Morse's successor. While most letters seemed to be favorable toward Jerome Leavell, one named Leavell as a liberal and shared the belief that the discord in the law school under Morse and Farley was due to the liberal leanings of the deans. This sentiment resonated with Roberts, who forwarded the letter to Chancellor Fortune for review.⁶⁴

Roberts, however, did recognize the need to find a candidate from outside of the law school. He told the Chancellor that he would not be able to “afford”⁶⁵ to choose a faculty member from within the law school, citing the number of letters he had received in support of candidates from outside the state. He also expressed that, from the candidates within the faculty at Ole Miss, he was strongly opposed to Joel Blass, though he did not provide a reason for his objection. Roberts seems to have understood the importance of the search, stating that “somehow, I think that this segment of the University is more important than any other single identity on campus.”⁶⁶

The faculty, however, was unable to come to a consensus regarding an acting dean.⁶⁷ In identifying a potential pool of candidates, Professors Williams and Stengel were identified as acceptable candidates for the position, and Professors Blass, Bunkley, and McDougal were found to be unsuitable. Regardless, the vote to recommend that the chancellor appoint an acting dean failed in a vote of eleven to seven.

Regarding the recommendation for the decanal appointment, the faculty of the law school first established voting procedures in accordance with published rules of the AALS for the selection of law deans. In order to narrow the candidate pool, each faculty member first entered a vote of *acceptable* or *unacceptable* for each candidate. All candidates that received seven or more votes of *unacceptable* were rejected from the candidate pool. All candidates that received at least ten votes of *acceptable* would be submitted to the Chancellor as a recommendation for the deanship. Each faculty member then ranked the list of candidates selected for recommendation in order of preference. Each candidate was awarded two points for a 1st ranking, one point for a 2nd ranking, and zero points for a 3rd ranking.⁶⁸

From this procedure, the faculty of the law school submitted three recommendations to the chancellor, which included: James P. White, who received a total of 19 points; Parham H. Williams, who received a total of 18 points; and George W. Stengel, who received 8 points in the ranking system.⁶⁹ All three candidates received three votes of *unacceptable*. Five candidates were not selected for recommendation, including: W. Joel Blass, who received ten unacceptable votes; John W. Bunkley, Jr., who received eleven unacceptable votes; Chester Curtis, who received fourteen unacceptable votes; Jerome Leavell, who received sixteen unacceptable votes; and Luther McDougal, who received eight unacceptable votes.

While Dean Morse was not involved in the selection process, he learned from Mason Ladd, Dean of the Florida State School of Law, that James P. White might not be a candidate who could handle the responsibility of leading a large law program. Though Leavell had received high recommendations from attorneys all over the South, Dean Ladd had taught Mason in law school and found him to be a “mediocre student,”⁷⁰ at best, and not fit for decanal duties. Morse relayed this information to the Chancellor and suggested should the faculty select White, that Chancellor Fortune contact Dean Ladd before making a final decision.

A memorandum written by Michael Cordozo, Chairman of the Executive Committee of the AALS, reveals that Chancellor Fortune telephoned him after receiving the final recommendations from the law school faculty.⁷¹ According to the memo, Chancellor Fortune was concerned with what appeared to him to be a blanket disapproval of some the faculty members. He was also worried about the composition of the search committee because all but one were junior members of the faculty. Fortune felt that the

committee should have had better representation of tenured faculty. Because of this, the chancellor sought clarification of the AALS Articles (the governing documents of the organization) that require consultation with faculty before making appointments. Cordozo suggested that faculty involvement is always favorable in the view of the AALS but that the AALS Articles were not intended to function as penal codes but rather as preferred methods to achieve goals in law school matters.

So, before making his decision, the chancellor interviewed the tenured members of the law faculty who had not participated directly on the decanal search committee.*

The chancellor gathered what he believed was a general consensus that the tenured members wanted a tenured law professor chosen from its own faculty, and one explicitly expressed that as long as the named dean was a legal educator and not a practitioner who had no experience in the academy, that the faculty would be willing to work with whomever the chancellor selected.⁷² Fortune then contacted Dean Morse to discuss the findings. Morse agreed that the best rationale for the chancellor would be to make his appointment based upon his personal interviews with individual faculty members.

This controversy received no less attention than others had in the past. An unnamed member of the law faculty reported that state attorneys wanted a practitioner in the dean's chair, rather than a legal educator and that Governor John Bell Williams

* There are no records of these conversations, but when the AALS later stepped in to investigate the matter, the investigative committee found the chancellor's recollection of the process to be factual. See "Report and Decision on Proposal to Recommend Expulsion of the University of Mississippi Law School From the Association of American Law Schools," PLF Files, Box 78, AALS Meeting in St. Louis, June 1970.

backed the decision.⁷³ The 1969 graduating class of the law school also weighed in on the nomination and voted Joel Blass, Parham Williams, and Chester Curtis, in order of preference.⁷⁴ Despite everything, Chancellor Fortune ignored everyone who had weighed in, at least publically, and recommended to the Board that J.W. Bunkley be named Dean-Elect of the law school. The Board approved the recommendation during the June meeting.⁷⁵

The intentions of the chancellor are not clear; however, the decanal appointment of Bunkley would prove to create further discord within the law school, and as outside forces continued to work against the evolutionary progress of the law school, internal discontent too would impede progression. The place of the law school would remain in flux for the next year-and-a-half. The space of the law school in influencing legal and political thought in the state would become reduced, as the program would have to invest its resources in resolving issues of academic freedom.

The Calvary Returns to Ole Miss Law

In May 1969, Lindsey Cowen once again visited Ole Miss Law, along with Professor Hardy Dillard of the University of Virginia to complete a formal investigation. Cowen and Dillard were joined by representatives of the AAUP, Richard Adams of Tulane University, and Professor Paul Carrington, a law professor from the University of Michigan. The investigators compiled a joint report of their findings, and the representatives of the AALS submitted their findings to the AALS Committee on Tenure

and Academic Freedom^{*} for review and final recommendation to be made to the full AALS at the annual conference later in the year.

The joint investigation found that the university had terminated the program for “at least one . . . non-educational” reason that was at least partly politically motivated. When the chancellor terminated the law program, it was done without consultation of the faculty and due to “interference”⁷⁶ by the state. Also, allowing other part-time law faculty members who were also in private practice to teach for the law school demonstrated that the policy was misapplied in the cases of McDougal, Trister, and Strickler.⁷⁷ Because of these things, the joint committee found that Chancellor Fortune, as the head of the institution, violated basic principles of academic freedom and had made no attempts to rectify the situation.

Perhaps more damaging to the institution as a whole, the investigative committee commented that the chancellor had succumbed to outside pressures. Recognizing that the administrative leader of a university is peculiarly situated as the mediator between the university and an outside that will often find criticism with the inside, the actions of the chancellor, according to the joint committee, had the potential to “destroy the very institution whose preservation is in its trust.” They found that the chancellor had not only yielded to outside forces but had transferred “their impact”⁷⁸ to the university.

They also found that the Board of Trustees had act inappropriately in its role when creating the outside employment policy. In the view of the committee, the policy

^{*} Josh Morse and Bill Murphy were both members of this committee but recused themselves from this portion of the investigation due to their prior affiliations with Ole Miss.

had been created based upon the “fundamentally erroneous premise that it is the function of the Board to forestall outside criticism, whether justified or not, rather than to meet and deal with such outside criticism as is the inevitable by-product of a viable, well-functioning university.”⁷⁹ While the actions of the Board were not central to the investigation and could not impact the recommendations that were to be made, connections of the Board to the university and to other key players in the state seemed to be inescapable.

The events surrounding the employment of Trister, Strickler, and McDougal had been the initial points for investigation, but by the time the representatives of the professional organizations had made their visit to campus, two other items emerged for consideration by the AALS and the AAUP. Not surprisingly, the selection process for naming Morse’s successor in the law school was brought to their attention. The second item, however, was shocking, as it had not been mentioned or reported at any point. The university had used salary sanctions to impose upon the academic freedom of a small number of professors in the university, including Josh Morse and Ken Vinson. This act was in direct violation of Article 6-6 of the Articles of Association of the AALS.⁸⁰ It also helped to explain that Morse was not only exhausted by the battle of Ole Miss Law, he had been pressured to leave.

However, the investigative committee had not been able to collect enough information during their visit to resolve a recommendation to present to their respective organizations. So, they recommended that further investigation into the law school be conducted concerning the newly discovered issues. Because salary raises were denied to

two professors outside of the law school as well, the AAUP representatives agreed to lead the investigation and issue its full report to the AALS.⁸¹

Chancellor Fortune disagreed with much of the findings of the initial investigative report. In fact, he claimed that some conclusions were completely “inaccurate.” According to him, Michael Trister and George Strickler were employed by the university under the guise that they would teach in the law school on a full-time basis. Despite documentation demonstrating otherwise, including the conversion of their nine-month contracts to twelve-month contracts, the chancellor claimed that the second year of their employment was continued under the same. He also claimed that the offer of employment when the OEO program ended was not an alternative offer of employment but one that was based upon “continuing full time teaching responsibilities.”⁸²

The chancellor accepted sole responsibility for ending the relationship with the OEO program. He claimed that his decision was based upon the recommendation of Vice-Chancellor Bryant to close the program because it was not meeting its intended educational mission and was economically unfeasible. While evidence reveals otherwise, the Chancellor told the AALS that the dean had confirmed these things during the legislative investigation into the program.⁸³

During the investigation, the committee had also been given a copy of the June 30, 1968 letter the chancellor sent to Josh Morse which stated that faculty members “will no longer be associated with the OEO program after its termination on or about June 30, 1968.”⁸⁴ In an interesting defense, the chancellor claimed that the findings of the AALS/AAUP joint committee were made in ignorance of the fact that he had knowledge when he wrote the letter to Morse that the professors’ participation in the

legal aid program had negatively impacted their teaching duties in the law school, though he failed to mention this to Morse when he wrote the letter. He also claimed that the fact of the professor's poor teaching was presented and was "admitted as sworn uncontroverted evidence" in court.* These things in combination, the chancellor concluded evidenced the fact that he had successfully performed his "difficult"⁸⁵ role as the head of the university.

While he did not elaborate, Fortune admitted that he had been under pressure from outside forces to end the OEO program on campus. Yet, he denied that the pressure he faced was a factor in his decision regarding the program. He also referenced Trister and Strickler in a way that painted the men's defense of their rights as a form of pressure, stating that he had refused to bow to "coercive demands by individuals for employment which would not have served the best interests of the University."⁸⁶ For this, the chancellor expressed pride.

Elsewhere in the law school, Law Professor Gerald H. Blessey requested a leave of absence for the 1969-70 academic year without pay and without reason.⁸⁷ He then decided to make his leave permanent and submitted a formal resignation requesting to terminate his contract on November 18 in order to pursue private practice. Joining the law faculty for the year was Robert C. Khayat, a 1966 graduate of Ole Miss Law and William R. Murray, who was hired as an assistant professor and also was hired to serve

* This also was not true. During trial, the professors agreed that because court appearances occur during the normal operating hours of the university they would have to be off campus at times. They, however, held firmly, under oath, that the appearance did not affect their teaching duties on campus.

as the Law Librarian.⁸⁸ Wade Sides was hired to replace Bunkley, who had been promoted to dean. Sides completed his advanced law degree at Yale in 1956. He joined the faculty from Memphis State University School of Law. This would be the first in a wave of personnel changes in the law school that would contribute to the continued co-evolution of the place and space of Ole Miss Law in the state.

Legal Battles Come to an End

After a long-awaited decision, on October 9, 1969, the Fifth Circuit Court overturned the decision of the lower court regarding Trister and Strickler's lawsuit and ordered the university to grant "injunctive and declaratory"⁸⁹ relief to the professors. In a two-to-one vote, the panel found in regard to whether a university could single-out an activity outside of the institution in which an employee cannot be employed, that doing so constituted a clear violation of equal protection afforded by the Fourteenth Amendment. The court identified that the reason the university disallowed the employments of Trister and Strickler with the legal aid program was due to the fact that the clients that the men had been representing via the program were "unpopular," a "distinction that cannot be constitutionally upheld."⁹⁰ The university filed an appeal with the US Supreme Court, but the high court refused to hear the case. Around the same time, the Board of Trustees modified the policy regarding outside employment to allow employment outside of the university on a case-by-case basis upon the approval of institutional heads.⁹¹

Then, On December 1, 1969, the district court entered its final decree in the speaker ban lawsuit, *Stacy v. Williams*.⁹² By the time the decision was made, the original lawsuit filed in 1967 after the incident with Aaron Henry was consolidated with two other

suits, filed by students of Ole Miss and Mississippi State University regarding the banning of Charles Evers from speaking on the university campuses. Evers, at the time was speaking throughout the state in support of the Humphrey-Muskie presidential ticket, and the majority opinion of the South favored American Independent Party candidate Alabama Governor George Wallace.

Earlier in the year, the district court determined that the variety of speaker policies and procedures that had been executed since 1955 were *prima facie* unconstitutional due to the vagueness of the language of the policy and for failing to include objective measures for approval of on-campus speakers. The court, acting in good faith, postponed injunctive relief in order for the Board to propose a new set of speaker regulations, which the Board did propose a month later, but the revised policy failed to meet the requirements of the court. In addition to violating due process, as with the original policy, it included new challenges to the free speech and assembly provision of the First Amendment and the Fourteenth amendment of the US Constitution.

So, the court established a speaker policy of its own. Judge J.P. Coleman (former Governor of Mississippi), writing for the court, established that invitations to outside speakers: be made only by organizations or individuals officially recognized by the university administration; invitations only be made upon receipt of written approval of the university administration so that dates, times, and speaking facilities could be coordinated; requests be made ten calendar days in advance of the speaking engagement; any requests not officially responded to by the administration be considered granted; and requests could only be denied if the administration of the university found that such

engagement would pose “a clear and present danger to the institution’s orderly operation by the speaker’s advocacy of such actions” as:

1. The violent overthrow of the government of the United States, the State of Mississippi or any political subdivision thereof;
2. The willful damage or destruction, or seizure or and subversion, of the institution’s buildings or property; or
3. The forcible disruption or impairment of, or interference with, the institution’s regularly scheduled classes or other educational functions; or administration or faculty.⁹³

The court also placed upon invited speakers the responsibility to abide by the law, thus alleviating the university of the responsibility for the speaker’s actions. The policy only affected invitations made by organized groups of students or faculty and were not applicable to faculty members’ decisions to extend invitations to speakers as a part of their classes.⁹⁴ As applied to an individual professor’s class, the court found would be a violation of the professor’s speech.

The court established grievance procedures in the case that a speaker application was denied by the head of the institution. A Campus Review Committee was to be formed for each institution of which the composition would include three faculty members appointed by the President of the Board of Trustees to serve one-year terms.⁹⁵ Also, the president and secretary of the student body would serve for the duration of the terms of their offices on the student body organization. Upon unsuccessful relief via campus grievance procedures, the court reserved the right for the aggrieved to seek judicial relief.⁹⁶

The court also allowed for institutional heads, at their discretion, to appoint a member of the faculty or administration to chair meetings and also to read a statement to the gathered body that opinions of the speaker may not be consistent with those of the institution or the group sponsoring the speaking event. Finally, as the Board was not required under statute to institute a policy regarding speakers, the court reserved for the Board the right of repeal of all speaker policies. Effectively, they could adopt the court's policy or have no policy at all, but the court would not allow the Board to make any further attempts at violating the Constitution of the United States. In January 1970, the Board of Trustees officially adopted the court's regulations,⁹⁷ and a just a few weeks later, the brazen Board would disobey the court order.^{*} This act demonstrates that by this point, the evolutionary process in the course of change in ideology regarding race, politics, and education in the state was moving forward at a pace, which had definitively threatened the space of the state. Ole Miss was busy dealing with accreditation issues and not actively pursuing issues of race or civil rights, but the rest of the state was running as fast as it could to stay in the same space.[†]

^{*} The Board placed pressure on the president of Mississippi State University to revoke a speaking invitation to Charles Evers who had already been approved to speak under the newly established speaker policy. This led to a sequel to *Stacy v. Williams* (1969), in which Chief Judge Keady found the Board in contempt. See *Stacy v. Williams* (1970).

[†] "Running as fast as it could" is a reference to a discussion between the Red Queen and Alice in Lewis Carroll's *Through the Looking-Glass and What Alice Found There*, when the queen told Alice, "it takes all the running you can do to keep in the same

Ole Miss Law on Watch

The earlier findings of the joint investigation made by the AALS and the AAUP were finally presented at the annual meeting on December 30. Based upon the recommendation of the AALS Committee on Academic Freedom and Tenure, the full AALS voted, without dissent, to expel Ole Miss Law unless the university took immediate action to remedy the actions taken against the law school faculty.⁹⁸ Also, the AALS requested the organization's tenure and academic freedom committee report their findings to the ABA.⁹⁹

The proceedings of the meeting hit the press the next day. Porter Fortune went on record with the media calling the charges "pure fantasy."¹⁰⁰ It was also reported at the meeting that, concerned with avoiding suspension and wanting to end the appeal to the US Supreme Court, Dean Bunkley received the approval of Chancellor Fortune and M.M. Roberts to offer Michael Trister \$20,000 to leave Oxford but that Trister declined.*

place. If you want to get somewhere else, you must run at least twice as fast as that," (p. 21). Journalist and popular science writer Matt Ridley later applied the notion to an evolutionary hypothesis that posits that evolutionary novelty and proliferation in organisms is for the purpose survival and not advantage. The hypothesis helps to explain extinction rates caused by the co-evolution of species when one species eventually outcompetes another. See Matt Ridley, *The Red Queen: Sex and the Evolution of Human Nature*, Reprint ed. (New York: Harper, 2012), Kindle edition.

* Trister also later recalled this to John Egerton for his 1972 piece on the law school. See John Egerton, "Shake-Up at Ole Miss," *Change* 4, no. 10 (Winter 1972-1973), 24-29.

Apparently, the joint investigative committee attempted during their visit to gather confirmation of this accusation, but the university denied the charge.

At the AALS annual meeting, it was determined that the university and the Board of Trustees must show compliance with the resolution by the meeting of the incoming Executive Committee of the AALS which was to be held on February 18, 1970. In addition to extending an open invitation to the law faculty of Ole Miss, Chancellor Fortune, Dean Bunkley, Michael Trister, George Strickler, Luther McDougal, and Joshua Morse were requested to attend and present at the meeting and were also invited to submit prepared notes to the Executive Committee prior to the meeting.¹⁰¹ Each was also invited to bring counsel. It was decided that the meeting should not be open to the public or press unless requested by invited presenters, but that was something that no one wanted to happen.

The chancellor then prepared for the January 1970 meeting of the Board of Trustees. On the eve of the Board meeting, the Faculty Senate unanimously adopted a resolution that called for the chancellor and the Board of Trustees to “take whatever steps necessary to avert suspension or expulsion of the University of Mississippi School of Law from membership in the American Association of American Law Schools.”¹⁰² As the chancellor and members of the Board of Trustees were already in Jackson in preparation for the next day’s meeting, the senate secretary sent copies of the resolution via telegram to Fortune and the Board members.

The next day, at the meeting of the Board of Trustees, Chancellor Fortune filed an addendum to the monthly report requesting the Board grant him the authority to comply with the requirements of the AALS in order to avoid expulsion from the association.¹⁰³

Regarding employment, he asked the Board to empower him to extend offers of employment to Michael Trister and George Strickler, either full-or-part-time and at the same rank and salaries when the two previously left the university. He also requested permission for himself or for Dean Bunkley to notify Ken Vinson, who was on leave, that should he choose to return to Ole Miss, no salary sanctions would be imposed upon him and that his salary would be at the rate that it would have been had he been given proper raises prior to his leave of absence. Finally, the Chancellor requested that the Board authorize the Secretary of the Board of Trustees as well as the Chancellor to assure in writing to the law school dean and faculty that they would have autonomy in conducting the affairs of the law school in cooperation with the standards of the AALS. In a seven-to-five vote,^{*} the Board granted all of Fortune's requests.¹⁰⁴

So, Dean Bunkley immediately contacted Michael Trister and George Strickler to invite them to return to the law school on a part-time basis[†] for the spring 1970 semester.¹⁰⁵ Strickler, who was in New Orleans at the time, declined the spring appointment but indicated that he was interested in returning for the 1970-71 academic year. That never happened. Instead, he remained in New Orleans, continuing with public work, but also he entered into private practice where he remained until joining the law

^{*} Members voting aye were Turner, Shoemaker, Izard, Haynes, Holmes, Cook, Morgan, and Hederman. Voting Nay were Stone, Lowery, Stevens, Brister, and Roberts.

[†] There seemed to be an unspoken understanding that the professors would engage in other employment elsewhere, but the chancellor did not officially revoke the policy regarding employment with the North Mississippi Rural Legal Services program until May 1970. See PLF Files, Box 78, Folder AALS Hearing in Atlanta, 12 May 1970.

faculty at Tulane University in 1979. Michael Trister, who was working full-time as the Executive Director of the North Mississippi Rural Legal Services accepted the offer and agreed to return to campus on February 1.¹⁰⁶

In light of the recent court decision in the Trister-Strickler lawsuit and the findings presented at the AALS annual meeting the previous December, ABA representative Harold Reuschlein notified Chancellor Fortune of the intention of the ABA to conduct their own investigation into all events and claims that had accumulated against the law school. Reuschlein invited the chancellor to provide the ABA with written responses to the Trister-Strickler lawsuit and the findings of the AALS Committee on Academic Freedom and Tenure for review, as the organization was to make a determination whether the ABA should pursue sanctions against the university. He also informed the chancellor that he would be in attendance at the AALS committee meeting in Atlanta.¹⁰⁷

John Crews, president of the campus chapter of the AAUP reported the progress that had been made since the December meeting of the AALS to the AAUP national office. While issues surrounding the law school had shown improvement, political science professor Russell Barrett's salary had not been increased, despite the fact that the chancellor had promised that it would. There had also been an incidence regarding an art professor whose work was removed from a campus exhibit for being too controversial. This too had not been remedied.¹⁰⁸

The week before the AALS meeting in Atlanta, Michael Trister, who had returned to campus, spoke of his ordeal with the law school at the Young Democrats meeting in Oxford.¹⁰⁹ According to him, the primary lesson he learned from his experiences was that

politics play a large role in the institutions in Mississippi. He also anticipated that the AALS would clear the university and the law school of all charges because he did not “think much of the AALS.” Trister had become disgruntled with the AALS for not suspending Ole Miss Law sooner and had little faith that they would be able to heal the damage to the law school or to him. Further, he made it very clear that his return to the university was not to be interpreted that the university had “made it right.”¹¹⁰

During the Young Democrats meeting, Trister also expressed disgust with the general atmosphere of the university and the people of the university, including the students themselves. He found the university to be “a dull place” where “nothing was happening and nobody was thinking.” He was astonished by students who would accept the norm and not get involved with issues merely because they were personally unaffected by them, though he did believe that politics, again, played a role in this, finding that politics in Mississippi either “scared people or tired them,”¹¹¹ an observation that history had shown was correct. Trister’s comments were indicative that during his time in Mississippi, he had experienced a perspective foreign to himself, and he was not comfortable in that foreign space.

As the AALS meeting in Atlanta approached, Michael Cardozo sent a formal statement of all charges against the law school that were to be addressed. In addition to the issues that had been addressed by the October report of the AALS-AAUP joint investigative committee, the AALS requested the chancellor be prepared to provide information regarding the denial of pay raises for Ken Vinson and Josh Morse.¹¹² Evident in his remarks, the chancellor invested much time in preparing for his address to the AALS committee.

Regarding Trister and Strickler, the chancellor provided a transcript from the trial court and asked the body to consider that over the course of the two court decisions, two judges had agreed the university had not acted wrongly, and two disagreed. Whether his reflection changed anything about his personal identity is not clear, but his public identity as the Chancellor of Ole Miss had not changed. He stated that, “having had two years to consider it,”¹¹³ he would have handled things differently, but in any case, he believed the actions were not subject to sanctions from accrediting bodies.

Regarding academic freedom, Fortune found it “difficult to define”¹¹⁴ and stated that the AALS Articles of Association provided him with no assistance with the matter, as academic freedom was defined nowhere in the document. For this reason, the chancellor did not wish to argue the point. Instead, he chose to focus on the progress the law school made since the December AALS meeting. After moving point-by-point from the law faculty resolution to the Board of Trustees meeting in January and then to the offers of reemployment to Trister and Strickler, he concluded that the real issue was a difference in opinion regarding whether his actions were right or not. That point he did not wish to debate. Since he had complied with the requests made of him by the faculty and the AALS, he reasoned the law school should not face sanctions by the organization.

During the meeting, the chancellor also produced a reproduction of a document detailing the OEO legal aid program. The reproduction noted that it had been “directed on July 16, 1968,”¹¹⁵ though the notation failed to mention to whom it had been directed.* In the document, the chancellor reviewed his knowledge of the operation of the program from the time he assumed the chancellorship until his decision to terminate the program.

* Also, there is no confirmation that he ever sent this documentation to anyone.

The statement claimed that the he and other administrative heads had reviewed the role, scope, and function of the program and determined that the program was operating outside of those parameters initially intended. He reinforced his previous position that he had ended the program, not due to complaints, but due to the fact that the review of the program revealed that it was not meeting its intended educational function. Though he provided no evidence to support the claim, the chancellor stated that Josh Morse participated in the review of the program and agreed that the program had little relevance to the educational function of the university. Fortune also claimed that what little function was present was, “so stifled and proscribed that the continued participation by the University in the operating agreement with the Office of Economic Opportunity was not justified.”¹¹⁶

Also not previously mentioned to the accrediting bodies or the trial court, the chancellor claimed that the full-time offer of employment for Trister, Strickler (and McDougal) made the summer of 1968 precluded employment with any other entity, including the OEO, because the professors had not requested outside employment in accordance with the established policy, a policy that was enacted after the termination of the affiliation of the law school with the program.

Further, despite the fact that the chancellor had met in person with Luther McDougal and Dean Morse on July 15, 1968 to discuss the terms of the offer of employment, his formal statement claimed that he authorized the offers but had no direct participation in the offers and no knowledge whether Josh Morse had actually made the offers of employment to the professors.¹¹⁷

In addition to the written statements, at the meeting, many entered testimony under oath to the investigative committee. During Chancellor Fortune's line of questioning, he reiterated again that upon assuming his duties as chancellor, he asked Dr. Bryant to apprise him of the OEO legal aid program. He also noted that it was one of many programs, including athletics for which he was receiving criticism from around the state.*

The chancellor also discussed the urgency he felt to the matter because immediately upon assuming his duties to the university, the law school received the letter of intent from the program regarding contract renewal. He claimed the exploration of the legal program had been made in order to inform his decision about its continuation. He stated that he had many discussions with Josh Morse about the continuation of the program before deciding to discontinue it. In determining whether to offer Trister, Strickler, and McDougal full-time or part-employment upon the closure of the OEO program, the chancellor stated that both Dean Morse and Vice-Chancellor Bryant expressed that the law school faculty were over-extended in their teaching duties. Thus, he justified his decision of offering only full-time employment to be in response to a need that existed in the law school, even though this was never relayed to the professors.

However, under cross-examination, the chancellor's dedication to the best interest of the university came into question. He was asked to explain the "educational basis" for

* Ole Miss was the final school in the Southeastern Conference to integrate its football team, which occurred in September 1972. Both the fact that the team had not integrated and that the team played integrated teams brought much controversy to the school.

forcing the professors to make an employment decision after the summer semester had begun. Once again, the chancellor passed responsibility to Trister and Strickler stating it was his “feeling that if they had the students more in mind than outside work,”¹¹⁸ that they would have chosen to teach the classes.

Fortune also failed to recount a conversation that he had with Dean Pollack of Yale Law, who had visited with the chancellor as a part of the AALS-AAUP joint investigation. Fortune had told Pollack that Trister and Strickler’s employment with the OEO program was unacceptable whether they worked full or part-time for the university. When the attorney for the AALS produced a copy of Dr. Pollack’s letter recounting the conversation, Fortune called it “gratuitous”¹¹⁹ and stated that Pollack wrote the letter in an attempt to distort the happenings in the law school to the accrediting bodies.

Then, under redirect examination, he clarified that he believed Pollack had intentionally left out details of their meeting when reporting to the AALS committee with the intention of having the university suspended from the organization. He also stated that Pollack’s motivations were to place pressure upon him stating, “and it was just another case of pressure that I didn’t buckle under to. This is pressure from the other side.”¹²⁰

Vice-Chancellor Alton Bryant also entered testimony during the hearing. During examination, Bryant provided details regarding his concerns with the OEO program, which he previously had never discussed publically.¹²¹ He stated that during the initial phase of the renewal of the OEO contract, he had been concerned from the conversion of the program from a pilot to a contract program. In the change, responsibility for final programmatic decision would transfer to the Board of Directors of the program, rather than the dean of the law school. This was of troubling because Bryant believed it to

conflict with state laws regarding the administration of universities in the state. However, no determination was made regarding the legal implications of conversion before the chancellor closed the program.

Bryant also revealed that his concern regarding the educational nature of the program was due to the fact that members of the state bar did not support the program. While this may have been viewed as receiving outside pressure to close the program, Bryant's concern was not unfounded, as without support from the practitioners of any profession, a clinical program will not succeed. Bryant was also concerned that the matching funds required by the renewal grant would place a financial burden on the university, which the university could not afford.¹²²

During the examination of Josh Morse, he stated that he believed the greatest failure of the program from its inception in 1966 until its discontinuation in 1968 was that there were inadequate human resources for the administration of the program. This, of course, previously had been noted by the OEO. While Morse advocated for continuation of the program, he admitted that it was a logical conclusion that the program would have continued to suffer had it continued at Ole Miss. He had hoped that after the renewal, the program would be able to increase the number of staff attorneys and that the program would overcome some of the administrative problems.¹²³ He never, during his line of questioning, was asked nor admitted to having agreed that the program be closed.

Though the question of Trister and Strickler's teaching abilities had been questioned and answered by the courts, Morse was asked by the attorney representing Ole Miss to put aside all previous lines of questioning and decisions regarding the employment of the two and comment on the professors' abilities based upon his own

opinion. Morse stated that as dean, he had always been satisfied with the teaching of the professors. He also made the point that the chancellor never asked him about the teaching abilities of the professors.¹²⁴

Unrest on Campus Once Again

Shortly after the chancellor and Dean Bunkley returned from Atlanta, unrest broke out on the campus. Since the assassination of Martin Luther King, Jr. in April 1968, black undergraduates had become increasingly politically active on campus. Two black law students, Eugene McLemore and John Donald joined the undergraduates in planning and organizing protests on campus. Somewhat older and more mature, McLemore and Donald proved to be great leaders of black student protesters, but that February, things got out of hand. On the night of February 25, 1970, a group of forty members of the Black Student Union (BSU) took a list of demands to the home of Chancellor Fortune, while another group of students assembled in the cafeteria and commenced to burn a rebel flag while dancing on the tables to the music of B.B. King.¹²⁵ The next night, nearly every black student enrolled at the university gathered at Fulton Chapel for a peaceful demonstration to demand, "black studies, black instructors, black athletes, and other such demands relevant to the people."¹²⁶ They disrupted a performance in the chapel with loud singing. So, state highway-patrolmen arrested ninety-three of the students for disturbing the peace, and they sent many of the students directly to the state's correctional facility at Parchman.¹²⁷

Acting Governor Charles Sullivan,* released a press statement that he believed that the students were following the lead of students, who had just prior to the episode at

* Governor John Bell Williams was out of the state at the time.

Ole Miss, participated in riots at Mississippi Valley State College and that they should be immediately expelled.¹²⁸ Sullivan also stated that he believed that state institutions immediately should enact policies that require expulsion with no chance for re-admittance in the cases of disruption of the organization and administration of the state's universities. Further, Sullivan stated that the principles of academic freedom did not apply to Trister, who he named as the faculty member who had helped to organize the rally. Shortly after, the chancellor announced to the faculty that criminal charges had been filed against the students and assured the faculty that he would punish severely any student found guilty.¹²⁹

Responding quickly to unrest, the Faculty Senate of Ole Miss organized in a special session. Law students Eugene Walls and John Donald led a group of black students in presenting a list of complaints to the senate related to their experiences as black members of the student body. The senate then passed a resolution introduced by law professor John R. Bradley that demanded criminal charges be dropped and that joined the students in their grievances, stating that "the black students at the University of Mississippi have urgent, legitimate grievances and urges the university to address itself to them immediately."¹³⁰

Also, the campus chapter of the AAUP adopted a "Statement on the University's Racial Crisis" in a special session called the next week. The statement included a number of "condemnations" as well as "commendations" and "recommendations" to the university. In addition to condemning sending students to Parchman, the AAUP paid particular attention to "vile and abusive language," both *toward black* players at sporting events as well as *by black* students toward the chancellor. Also condemned were attitudes

of “indifference”¹³¹ on campus toward the welfare of black students at the university as well as attitudes that expressed a blanket denial of the frustrations experienced by black students on campus.

In the commendation section of the document, the chapter did make the point that race relations had improved on campus. They also commended students and the university itself for working toward improvement of racial relations and the faculty senate for a quick response to racial crisis and for “exploring ways to implement reasonable and realistic demands.”¹³² Also the chancellor was commended for his promise to observe academic due process to student protestors.

The statement recommended that the black students who had gone to the chancellor’s home apologize to him and that all students observe both university regulations and state laws while on campus. The AAUP chapter also was in agreement with the recommendations made the week before by the Faculty Senate regarding the dismissal of criminal charges against the protestors and urged that leniency be exercised for on-campus disciplinary procedures and that procedures be “modeled after the justice meted out in the past for white student misconduct.”¹³³

Finally, the statement recommended positive actions be taken by the university including, the appointment of black students to the staff of the school newspaper and the establishment of an editorial reserved for the black student viewpoint. Also, it was recommended that black athletes be recruited, as all other colleges in the state had done by that point. They also recommended that the Chancellor establish a monthly meeting with black student leaders.¹³⁴

In their promotion of diversity on campus, the AAUP members recommended that the university hire black personnel for staff positions, such as clerical ones and that black teaching assistants be appointed. They recommended that campus security treat all persons equitably and courteously. They recommended that the university identify and apply for federal grants for “remedial education and cultural enrichment programs, such as Upward Bound,”¹³⁵ and finally, the statement recommended that the university conduct a study of other southern colleges to determine how best to create an welcoming atmosphere for black students and that Ole Miss also utilize campus organizations to establish an open dialogue between black and white students.

If there had been any question before, these events answered definitively that a shift in ideology was taking place at Ole Miss, both in the student and faculty bodies. The space containing the ideology was on shaky ground, but the place of Ole Miss had been disrupted, and the time had come for the university administration to be proactive in the construction of the place and space of the university regarding race.

Michael Trister’s involvement in the demonstrations is not clear, but according to an investigator for the Sovereignty Commission, after the students had been arrested, he organized a meeting of the legal aid program with a group of approximately 200 Ole Miss students to discuss the mass arrests of Ole Miss students.¹³⁶ According to the report, Trister and John Britton, also with the legal aid program, advocated violence if necessary to achieve their means, though there is no other evidence to confirm that such had taken place. In any case, no further violence or disruptions surrounding the student protest ensued.

The Student Judicial Council convened on March 3 to hear testimony on behalf of nearly eighty of the black students to determine whether to make recommendations to Chancellor Fortune for expulsion.¹³⁷ The legal aid program, under the leadership of Michael Trister, represented each of the students during the hearing. After hearing testimony, the student committee voted to suspend eight of the students for a period of one year and to place forty-five other students on suspension but with suspended sentences for tenure on campus.¹³⁸ After the decree, the campus once again calmed.

AAUP Censures Ole Miss

The next month, during the fifty-sixth annual meeting of the AAUP, the delegation voted to censure the University of Mississippi.¹³⁹ The chancellor was notified immediately by telegram of the censure and the decision of the AALS was due to, basic issues of academic freedom and tenure as they relate to administrative interference, in deference to political pressures, with faculty judgments on socially desirable and educationally appropriate activities. The acts that occasioned Association investigation exemplify the use of subtle techniques for chilling the exercise of academic freedom and the persistent use of regulatory prescriptions to inhibit the exercise of constitutional freedoms of faculty and students. . . . In addition, there is the record of protracted and persistent intrusion by the state board into institutional affairs as they related to conditions of academic freedom and tenure.¹⁴⁰

The report compiled by the AAUP committee and presented at the conference recalled very much the same course of events presented at the AALS meeting the previous December. The committee expressed strong disapproval that law faculty had not

been involved in the decision to close the OEO program. Yet, after the university came under investigation by the professional associations, the chancellor, cited educational reasons for ending the venture, a conclusion the AAUP felt could not be reached without proper faculty input.¹⁴¹

Regarding the financial burden placed upon the university, members of the AAUP committee were unable to reach a consensus. Upon investigation, it was learned that the university did have to make a greater financial contribution during the second year of the program than it had in its first year, but also that the renewal grant increased allocations made by the OEO. So, the committee was not able to determine definitively how finance played into the decision and refrained from judgment.¹⁴²

The AAUP committee also found that as the program progressed and the number of staff attorneys working for the program increased, that the number of cases outsourced declined. This, they acknowledged contributed to the discontent among members of the bar. However, they were not able to substantiate claims made by bar members that the staff attorneys were engaged in professional misconduct, and as no charges were ever brought against attorneys working for the program, the AAUP rendered the accusations “baseless.”¹⁴³

After an investigation into salary sanctions, the AAUP came to the conclusion that “selective salary freezes” had been induced by the administration of Ole Miss due to an inability to “withstand political pressure,”¹⁴⁴ and affected four individuals in the university.* In regard to raises in the law school, Vinson had been denied a \$1000 raise

* Two of the four freezes were outside of the school of law and included Russell Barrett and Dean M. Aydelott, an art professor.

for the 1968-69 year.^{*} Morse was denied \$1500 in the same year and a larger amount the next year.[†]

During the investigation, Ken Vinson, reported to the joint committee that Josh Morse had privately told him that he had included a raise for Vinson in the 1968-69 budget but that Vice-Chancellor Alton Bryant dissuaded the chancellor from approving the raise.¹⁴⁵ Morse told Vinson it was in part because of an article Vinson had published in *Nation* magazine criticizing the university administration and the Board and also because of Vinson's involvement in *Stacy v. Williams*. The AAUP did not report the circumstances surrounding Morse's salary freeze[‡] but reported simply that Morse had left Ole Miss to accept a position at Florida State University.

During the meeting, the AAUP committee also released details of their closed interview with Chancellor Fortune. The chancellor had held his position that his decision to end the legal services program was genuinely due to financial concerns. He, however, expressed that he was disheartened by the fact that he was in the position to be torn between worrying about legislative appropriations while also being continually

^{*} Though Vinson was denied a raise, he did not suffer an actual financial loss because Morse secured money from the Ford Foundation grant to pay him \$1500 in compensation for teaching an undergraduate course. Vinson had taught the course without compensation in previous years.

[†] The joint committee did not establish the exact amount that a raise for the 1969-70 academic year should have been.

[‡] Morse did not provide the AAUP with details of his salary freeze. In fact there is no record that he ever discussed the situation with anyone.

undermined by a “small minority” of faculty members, consisting of law faculty and members of the AAUP faculty whose personal positions alienate “the people on whose support the university depends.”¹⁴⁶ He specifically identified Michael Trister and George Strickler as being the culprits behind all of the events that had led to the events that had transpired as well as to his personal embarrassment. The chancellor told the committee that the hiring freeze of Ken Vinson was because of a student report that the professor dedicated a month of class time to discussing the OEO program, an allegation that the committee found went uninvestigated by the central administration of the university.

Immediately after the censure, Dean Bunkley contacted the state’s Attorney General to determine if Ken Vinson, Russell Barrett, and Dean Aydelott, who had not been given salary increases in the previous biennium, could receive back-pay as a corrective measure to the AAUP censure. However, precedent of the Mississippi Supreme Court held that an individual was prohibited from receiving compensation beyond what was stipulated in his contract after services had been rendered. In the eyes of the attorney general, fiscal remedy for the professors would not be possible.¹⁴⁷ So, the chancellor felt that his only reparation was to authorize Vinson a salary increase that would bring him current with his colleagues.¹⁴⁸

Ken Vinson, still on leave at Florida State University, called Dean Bunkley to express dissatisfaction with his salary for the 1970-71 school year. Bunkley had offered Vinson a raise from \$14,900 to \$16,000, but the amount was less than either the amount that had been demanded by the AALS or the amount the chancellor had promised.¹⁴⁹ Also, \$16,000 failed to place Vinson at a salary point commensurate with other members of the faculty who had less experience than Vinson.

It is not clear what Dean Bunkley communicated during that conversation, but the next day, he wrote to Vinson to explain his considerations for the salary. Included were the dean's observations that: Vinson was only on campus during class time; his frequent absences from committee and faculty meetings; a non-collegial attitude; that he had told Bunkley privately that he considered it a goal to make the new dean's "job as miserable as possible;" that Vinson had stated he had no desire to teach; that an "unusual number of students"¹⁵⁰ had complained about Vinson and had requested to drop his courses; that Vinson took a leave of absence after registration had taken place for the semester, thus straining the teaching loads of the other law school faculty; that despite repeated requests, Vinson refused to notify the law school of his intentions to return to the law school; and that Vinson had expressed both to the dean and to other members of the faculty that he had no desire to return to Oxford. These were observations Bunkley claimed he had made upon assuming his role as dean, though he had worked with Vinson since 1964.

Vinson delayed his response to the dean for more than a month when on May 14, 1970, Kenneth Vinson sent his resignation, thus terminating his contract with the university at the end of the month. Unlike previous colleagues, the professor was less than amicable in his resignation, addressing the dean's correspondence from the previous month, he wrote,

The most charitable thing I can think to say is that I doubt you wrote it, or at least, that you believed it. Since the letter sounded so much like a Complaint, I hereby enter my General Denial; in addition, I thought the letter was garbage, with perhaps a half a grain of truth here and there to keep down the stink. . . .

Considering Ole Miss' current attitude toward me reflected by your third class

offer of a raise and your fourth class letter, and considering the slight chance that due process can reach the Ole Miss law school in the near-enough future, I, regretfully resign.¹⁵¹

Elsewhere on campus, as Ken Vinson was on a leave of absence, Professor John Crews assumed the role of the president of the campus chapter of the AAUP and continued to facilitate dialogue between and among faculty members, the university administration, and the national office of the AAUP. The same month, the faculty senate voted nineteen-to-nine in favor of a resolution that called for the chancellor to take steps to have the university removed from the AAUPs list of censured institutions. According to Crews, the Chancellor agreed with the resolution and wanted to do whatever necessary to have the institution removed from censure.¹⁵²

John Crews also spoke with E.R. Yerby, the Executive Assistant to the chancellor, regarding the removal of Trister and Strickler without notice.¹⁵³ Yerby defended the action itself and referred Crews to the AAUPs own standards for notification of termination of contracts of untenured faculty, which were incorporated into the university guidelines for termination of contracts. Faculty members with one year of service were to be notified by March 1 or were to be notified three months in advance of the termination of the contract. Faculty members with two years of service were to be notified by December 15 or six months prior to the expiration of the contract, and faculty members with three or more years of service required a one-year terminal contract. Yerby held firmly that the guidelines had been followed, though this clearly was not true.

The Progressive Era of Ole Miss Law Comes to an End

As the 1969-70 academic year was coming to an end, Dean Bunkley was busy preparing for the upcoming year. The Ford Foundation grant was to end on June 30; however, there remained a little more than \$78,000 in unexpended grant funds from the Foundation.¹⁵⁴ So, Bunkley was granted a one-year extension to the grant and was permitted to allocate \$10,000 of the remaining balance to salaries for visiting lecturers and \$68,000 to student scholarships. Morse had left the university, but the legacy of his dedication to fund student scholarships lived on for another year.

Bunkley also was busy coordinating law faculty appointments, which were in flux, for the upcoming year. Florida State University (FSU), where Josh Morse had accepted the decanal appointment, wanted John Bradley, Jr. for the academic year,¹⁵⁵ and Ken Vinson had decided to stay on permanently at FSU. Associate Professor Heathcote W. Wales requested a leave for year to pursue a visiting professorship at the University of Texas School of Law. Harry L. Case, Jr. was reappointed to the faculty at Ole Miss Law to replace Walter E. Chryst, who had passed away, and was also promoted to full Professor.¹⁵⁶ Associate Professor Thomas A. Edmonds tendered his resignation to be effective on August 15, 1970 in order “to accept a teaching position at another school.”¹⁵⁷ Interestingly, Edmonds was granted tenure the same month.¹⁵⁸ Apparently, that was not enough to make him want to remain at Ole Miss Law.

Having made his point and ready to move on, Michael Trister resigned his adjunct appointment. He taught in the law school during the summer term before leaving to accept a position with the Washington Research Project. The next month, the Board approved a leave of absence for Professor George Stengel for the 1970-71 academic year

so that Stengel could accept a visiting position at the University of Kentucky School of Law.¹⁵⁹

That summer, the Board approved Ken Vinson's replacement, twenty-seven-year-old Guthrie T. Abbott, a 1967 graduate of Ole Miss Law who had been in practice with a Gulfport law firms since his graduation.¹⁶⁰ Fenton Adams was also approved by the Board to replace Wade H. Sides, who had resigned unexpectedly over the summer. Adams held previous posts as Professor of Law and Assistant Dean at both the University of Arkansas School of Law and his alma mater, Dickenson College School of Law in Carlsile, Pennsylvania. The Board also approved the return of Dean and Professor Emeritus Robert J. Farley to the law school to teach on a visiting appointment for the 1970-71 year,¹⁶¹ and in a matter of minutes of approved appointments, the place of Ole Miss Law School changed in composition. Morse and the last of the Yalies were gone.

Scholarships and employment actions were not the only business during the summer term. Chancellor Fortune was busy preparing for a final meeting with the AALS Committee on Academic Freedom and Tenure that was to be held in August. He was also busy executing acts of damage-control. In order to comply with recommendations the AALS had made to him, he wrote to the members of the law faculty to clarify to them that he, as the chancellor of the university, would ensure their rights as faculty members. Of these, Fortune made assurances their full right to academic freedom. He also promised that no salary sanctions would be imposed on the faculty for expressing values that ran counter to the status quo in the state. He promised full attention to be paid to faculty recommendations for future decanal appointments, but he also reserved the right afforded his office to overrule the faculty in decisions regarding appointments and law programs.

He did promise that in the event he found such veto necessary, he would provide a full explanation in writing to all members of the faculty.¹⁶²

Ole Miss Law was on the path of recovery. However, during the AALS meeting, held in St. Louis, another matter surfaced—the appointment of black professors on the law faculty. Eugene McLemore, a black law student, had reported to the AALS that Ole Miss Law passed over a faculty appointment of Franklin Cleckley, a black applicant, based solely upon his race. Fortune told the AALS committee that the law faculty deemed Cleckley to be not as highly qualified as the other applicants. He was also able to produce communications between George Stengel, who had served as chair of the search committee, and Reginald Allenye, a black professor at the University of California Los Angeles, informing him that two vacancies in the law school were open. This, the chancellor reasoned, provided sufficient evidence that the law faculty would not deny an applicant based upon race, which seemed to appease the committee.¹⁶³ The AALS agreed and decided to not pursue the issue further.

In October, representatives of the AALS Committee on Academic Freedom and Tenure traveled to Oxford, once again, to complete a final investigation before the committee met to determine whether to recommend the AALS vote sanctions against Ole Miss at the annual meeting that was quickly approaching. The full committee met later in the month to review the report from the campus visit and to enter a formal vote regarding recommendations to be made to the full AALS at the December meeting.¹⁶⁴ In question during this meeting were three issues: the general atmosphere of academic freedom at Ole Miss; whether there was evidence that the university was acting in good faith to restore academic freedom, as had been previously assured to the AALS; and, as they had

been taken off guard previously during their investigations, whether any other standards of the AALS had been violated by the university.¹⁶⁵

During this meeting, the committee voted to recommend to the AALS to suspend the university from association with the AALS due to “serious violations of academic freedom.”¹⁶⁶ They found that while the law school and university had taken steps toward the remediation of problems associated with charges made against them by the AALS that the steps were not adequate in addressing the problems. However, the committee recognized that the university had not yet had the opportunity to respond to the report or to their findings and recommended that the administrators be afforded that opportunity. The final recommendation was expulsion from the AALS if the university failed to demonstrate that academic freedom had been restored. Continuing the year-long effort to allow the university administration to correct its wrongs, the committee elected to hold a yet another meeting in Memphis in early December with faculty members and the administrators of Ole Miss to allow the findings of fact from the Executive Committee meeting to be discussed before being presented at the annual meeting of the AALS at the end of the month. By that point, the university administration was not able to produce any additional evidence to the contrary of the AALS findings.

At the December 1970 meeting of the AALS, upon the recommendation of the committee, the organization voted to place the Ole Miss Law School under censure for violation of the principles of academic freedom and of tenure. This vote came as a result of the firing of Trister and Strickler.¹⁶⁷ Specifically, the AALS found the law school guilty of: “withdrawing permission for law-school faculty members to conduct a legal services program . . . while continuing part-time teaching at the school, denying salary

increases to some law school faculty members because they held and expressed views unpopular in the community, and selecting a dean whom a majority of the law faculty had reported to be unacceptable to them.”¹⁶⁸ Additionally, the AALS found that the atmosphere of the university was not conducive to academic freedom. The AALS noted that the university had begun to remediate these issues, and placed the university under surveillance for a period of two years.

Regardless the decision of the AALS, the war was over. The law school would spend the coming year working toward making peace with the AALS. The student body in 1971 would increase to 645, an astounding leap above the previous year’s 399 students. To deal with the influx of students, additional faculty would be added to the law school—none of them from Yale. Associate Dean Joel Blass also left the law school that year to return to private practice, and then unexpectedly, on September 30, 1971, Dean Bunkley suffered a heart attack and quietly passed away. With little discussion, the faculty voted unanimously in favor of Parham Williams for the next decanal appointment. Chancellor Porter Fortune and the Board of Trustees approved.¹⁶⁹

CHAPTER VIII

OLE MISS IN THE AM AND OLE MISS IN THE PM

“It is the accumulation of such ironies, so meaningful to the native son, that makes this
beautiful and tragic and bewitched state unique.”

Willie Morris

And She Will Never Be the Same

More than a century after Ole Miss Law opened its doors, it caught the attention of the nation, and held Americans captive for but a moment. Such attention has not been paid to the law school since, either good or bad. Ole Miss Law, it seems, was part of a larger battlefield upon which a war for place was being fought—a place where identity is not determined by race, at least not by race alone. Ten years after James Meredith integrated Ole Miss, John Egerton described the University of Mississippi, including its law school, as having two eras—AM (ante-Meredith) and PM (post-Meredith).¹ According to Egerton, the AM Ole Miss was defined solely by white supremacy. The PM Ole Miss, however, was not definable. Rather, it presented for Egerton a study in paradox. Female students picketed—for homecoming queen—while Charles Evers, who had been turned away from speaking on campus in 1968 gave two speeches on campus during his gubernatorial campaign in 1971. The football program employed more coaches than the English department employed professors. Class was compulsorily attended without fail. Yet, alcohol could be found at any time in any of the Greek houses, despite rules against alcohol on campus.

Egerton’s conclusions are as curious as his observations. The institution and its law school appeared to have one foot in the space of the southern way of life and the

other in a space that Egerton could not find words to define. Because of this, he concluded that progressivism in Ole Miss Law failed. Egerton, however, was looking for progressive ideology as the hallmark by which to judge the identity of Ole Miss Law and was using the North as his instrument for measure. Egerton's measuring stick did not have a limit of toleration that was sensitive enough to detect that change had taken place, and he had not allowed enough time for the accumulation of change in individual identities necessary to notice a change in space in a capacity measurable by the standards of northern progressivism.

The place that was the AM Ole Miss Law was located in Oxford, Mississippi. It was located in an institutionalized space that was constructed both physically and ideologically to train the state's future politicians. For nearly one hundred years, the space that was Ole Miss Law was constrained by the prevailing political and social places that prevented blacks from attending. Thus, the identity of the law school as the birthplace of the state's politicians went unchallenged. When the doors of Ole Miss Law opened, blacks had not achieved a political place in the United States, much less in Mississippi, and that place was necessary for the achievement of a higher social place.

After emancipation, blacks enjoyed a brief political place in the South, but it was temporally isolated and did not persist long enough to have the necessary impact needed to construct academic spaces in which races would mix. Year-after-year, Ole Miss Law produced white graduates who went on to both practice law and politics in the state, thus reinforcing the collective relational space of the state toward blacks, particularly toward blacks in the law and in politics. As blacks continued to not become the educational-political offspring of Ole Miss Law, little evolution of the space or place that was Ole

Miss Law occurred. This maintained both the identity and ideology of Ole Miss Law in its original construction and afforded the law school a comfortable relative and relational space to the political structure of the state. *Brown v. Board of Education* did not change the place or the space of Ole Miss Law instantly, but *Brown* can be seen as a temporally isolated event that created the mediating environment that is necessary to facilitate the coevolution (co-construction) of the space and place and the racial identity of Ole Miss.

The stories of Farley and Murphy and Morse and the Yalies fit perfectly into this pattern. Farley and Murphy left the law school around the same time as Meredith. Before Murphy and Farley, the law school served as the gateway to positions of power, which served to reinforce ideologies in the state through executive and judicial action. Their battles in the law school built up to the Morse-Yalie era, or, what Egerton called the “shake-up”² at Ole Miss. It was during this time, that the operations of the law school evolved to include clinical education, which has become a mainstay in American legal education. Since then, legal education across the nation has morphed into a combination of coursework and apprenticeship. Ole Miss Law, however, morphed rapidly against a backdrop of racial issues, and the change in structure of the law school occurred more rapidly than ideologies toward race could evolve, especially elsewhere in the university and in the state. Many were unprepared to cope with challenges to the norm because their own identities were challenged by progress.

The AM Ole Miss Law School was a place where politicians were trained largely through the Socratic method. Students were taught to argue with and about the law, and its professors were its graduates. The spaces of the law school were congruent with those beyond its borders, both on campus and in the state. William Patrick Murphy, however,

disrupted that space in the law school, altering the trajectory of the place that was Ole Miss Law. His sociological approach to the law was also different from what had been previously taught, and teaching students *how* to think in a new way has the potential to shift their identities far beyond teaching them *what* to think.

What unfolded and what Egerton had witnessed, was the fallout of the revolution. By the time the articles about the law school ran in *Ebony* and *Time* magazines 1966, the battles against the integration of Mississippi's institutions of higher learning were over. Both the university and the law school had integrated. The Civil Rights Act of 1964 and Voting Rights Act of 1965 had been enacted. Yet, there were more battles to fight. The state could no longer sustain an open war against the physical mixing of black and white. So, it then turned its focus to battling cultural mixing, creating a different racial tension in the state, one that may have never left the law school or the state or the South.

By 1966 the space of Ole Miss Law had changed in its relative position by the mere presence of black students. Though the change was small, those nine students changed the racial composition of the law school. The place of the law school had not changed, but the space had. Because of this change, a battle commenced to maintain the racial ideology of the school, despite the fact that the racial identity of the school had been altered. This battle, then, was a force that acted upon the co-construction of a new place and space at Ole Miss Law.

Off campus, Oxford, as well as the rest of the state, remained very segregated. Despite integration of schools, from churches to hair salons, whites and blacks continued to segregate the very institutions that represent American society—religion and business. Every black student that stepped onto campus physically displaced the space of the

university, and because no one understood how to respond to this, an ambiguous relational space was created that served for many whites to reinforce the notion that race-mixing was underway and was, somehow, wrong. Black students equally were disoriented by the experience. Propositionally, blacks were integrationists, but practically they were uncomfortable with intermingling with whites. The practice did not fit their identity. Clyde Kennard, who tried unsuccessfully to gain admission to Mississippi Southern, expressed this sentiment in a letter to the *Hattiesburg American*, writing that blacks were “segregationists by choice . . . [and] prefer to be alone, but experience has taught us that if we are ever to attain the goal of first class citizenship we must do it through a closer association with the dominant group.”³

However, desegregation of higher education happened. This fact alone was enough to sustain and develop new discriminatory policies to suppress the advancement of black students into traditionally white colleges, as would later be confirmed in *United States v Fordice*. Further, as previously stated, other establishments remained segregated in the state, such as churches and country clubs. The location had been integrated, but neither whites nor blacks were ready to integrate the cultural space. Adopting a new racial ideology would mean a change in identity, a change that makes people rather uncomfortable and takes *time*. Blacks and whites alike seemed content, at least for a time, with mere coexistence on campus. It was not until the legal aid program filed the desegregation suits for Holly Springs, threatening the still established racial segregation of primary and secondary schools that the people of the state were called to arms.

On campus, in reaction to this change of space, black students were subjected to pranks. While usually non-violent, they were intimidating, even frightening, to the black

students. For example, two students living in the dormitory awakened one morning to find a funeral wreath outside of their door.⁴ When white students attempted to show friendliness toward their black peers, they were ostracized by other white students. Black students found a solution for a long time only through self-segregation, but this separation served more than to keep races physically distant. It also served to maintain a relational space, the belief that races should not mix. If places affect spaces by virtue of their presence, then this is an indication that the space that was Ole Miss initially was unchanged (or imperceptibly so) by the presence of black students.

In the law school, the greatest force acting upon the place was the presence of its professors and deans. The avoidance of co-mingling in the law school was not as severe as the rest of campus, but the organizing force behind intermingled activities was not the students. It was the Yalies, such as Mike Horowitz and Mike Trister, who took it upon them to spend time with the black students. Josh Morse also dedicated much time to getting to know and socialize with the black law students.⁵ These interactions brought comfort to the black students and allowed for them to slowly accept their new place at Ole Miss, which would, in turn, over time allow them to accept changes in identity.

This change, however, would take a lot of time. Even as the number of black students in the law school increased, they tended to segregate themselves with the other black undergraduates, rather than to socialize with their peers. Reuben Anderson recalled his time at Ole Miss as “unpleasant,”⁶ and he did not enjoy his time in law school. Law students did not have an alternative in legal education in the state, but other students did. Black students chose historically white institutions in order have to access to better education. Prior to *Brown*, the physical facilities at Alcorn A&M College were barely

inhabitable,⁷ and despite pre-*Brown* efforts to improve facilities of the black institutions in the state, they remained unequal to those of the historically white institutions in terms of facilities and course offerings. Seeking a new social place, black students chose white institutions at the expense of comfort.

What is often overlooked in literature, however, is that white students did not base their perceptions of the quality of white institutions upon facilities or instruction. Whites viewed the quality of education as being better because of segregation itself. C. Van Woodward noted that “white flight” from public schools produced a number of private segregated secondary schools, but the quality of instruction differed greatly from school to school.⁸ The unifying measure of quality then was based upon a racial ideology. Those schools were better simply because they were not black schools.

When Ole Miss integrated, hundreds of complaints were received in the chancellor’s office that noted that the quality of education was threatened merely by Meredith’s presence. Meredith’s success while Ole Miss was often attributed not to his intellectual capacity or perseverance but to professors who were alleged to have passed him despite his failure.⁹ If white students shared this opinion, it undoubtedly would have further increased their level of discomfort. The disruption to their educational space threatened the social place afforded them by attending an all-white institution. When such disruptions occur, they create challenges to one’s personal identity as a person of prestige due to the position in a particular educational space. Thus, the relational space is also challenged. This shows that spaces are not inactive participants in their own construction.

Over time, however, discomfort turned to discontent, as the ambiguous space created by self-segregation was not isolated by the evolving social places on campus, and

would be forced to evolve. Over time, the strained social interactions on campuses erupted in protests in the state's institutions, many of which turned violent. Given this, it is easy to identify with the position of many scholars that Mississippi's institutions played an active role in serving to perpetuate racial disorder rather than nursing the victims of a war in which it did not participate.¹⁰ Further, as actions tended to serve the purpose of quelling violence, rather than dealing with the source of discontent itself, the initial reactions to the fray caused by integration in academic institutions served as an early force in the mass institutionalization of racism, thus transferring, at least a portion of, the domineering racial power structure into the academy.

The law school was not the only wounded division on campus, and Ole Miss, was not the only wounded school in the south. C. Van Woodward reported that there existed a "crisis in the southern colleges."¹¹ He named eighteen total. As it turns out, Ole Miss was in good company. Yet, at Ole Miss, there were, arguably, the most concentrated surges of resistance to liberal ideals were in the law school. The clear explanation for this is because the law school served as basic training for the armed forces of the state—its politicians, a sentiment echoed by Bill Murphy in 1997 when he observed that Ole Miss Law, "was the throat through which future lawyers and judges and leaders of the state went,"¹² and "had no history of tradition or insulation from political interference and domination."¹³ A hundred years strong, a handful of men cut that throat causing a backlash that was heard across the country.

Trustee and legislative opposition was unseen in other southern law schools, especially at the level experienced at Ole Miss. Bill Murphy could not recall any other constitutional law professor at that time who underwent the sustained controversy that he

did, stating that “in that respect Ole Miss and Murphy were unique.”¹⁴ In fact, he recalled his counterpart in constitutional law at the University of Alabama School of Law, Jay Murphy (no relation to Bill Murphy), taught his constitutional law course the same way. Resistance to integration was no less strong in Alabama, but politics in Alabama were not as influential to the operations within the law school in Alabama as they were in Mississippi.¹⁵

In addition to direct opposition from the Board of Trustees and legislators, Murphy received hate mail from members of the Citizens’ Council. While he did not receive a large quantity, mailings were frequent enough that he felt that his fears were justified as more than mere paranoia.¹⁶ As Murphy perceived himself to be a defender of the Supreme Court as the final arbitrator of the Constitution,¹⁷ not a defender of civil rights, the pressure he faced, in his mind, was inconsistent with the actions that had caused the rebellion against him. Others viewed him as dangerous, but Murphy did not construct his own identity in such a way. Nor did he intend to “become a *cause célèbre* in Mississippi.”¹⁸ In fact, at the time, he believed that the attacks upon him were not because he was particularly dangerous but were meant to serve to make him the example the state wished to use to exercise control over other professors and teachers in the state.¹⁹ William Patrick Murphy believed that he was a casualty of war. Murphy may have been selling himself short.

Farley, while helpful to Murphy, simply was as not openly defiant like Murphy was. In fact, after the charges of Hooker and White were dismissed, there is no indication that Farley ever spoke publically regarding any legal issue that may have been construed to run counter to the legal and political place of the state. Toward the end of his tenure at

Ole Miss, Farley may have no longer been viewed as fit to be a dean, but he was invited back after the Yalies left to fill the void in the teaching faculty. This would not have happened had he been viewed as a threat in the classroom.

Whereas the throes experienced by Farley and Murphy came from the legislature, the Board of Trustees, Citizens' Council, and other private citizens, the forces of opposition for Morse were primarily from the legislature and the Board, as they were focused from within the political structure of the state itself. In fact, Morse claimed that he never felt any direct pressure by the Citizens' Council. According to him, by the time he was named dean, the Council had become rather "toothless."²⁰ By the time that Morse had returned to Mississippi from Yale, Paul B. Johnson, Jr. was in the governor's mansion, and the force exerted by the organization in the law school somewhat had dissipated.

This does not mean that the opposition was less intense. On the contrary, by the time Morse assumed his role in the dean's office, the political structure in the state had begun to lose its ability to maintain a racially dichotomized space in the state. Resisting change, the legislative and governing board grew intense in their responses to the evolution within academic institutions. However, Morse did feel pressure to leave, especially by members of the legislature from Marshall County, where the legal aid program had filed desegregation lawsuits.²¹ This is not surprising considering the potential of desegregation to rapidly change the primary and secondary educational spaces of the state.

If creating a new culture had been the only goal of Josh Morse, he likely would have chosen a different path, as such a feat takes much time and much exertion upon the

existing social and economic structures of a space. The fact is, Josh Morse did not have the luxury of gradualism. When he became the dean of the law school, he was faced with financial difficulties that had plagued the law school for a long time. His predecessor, Farley, had been able to grow the law school in size as well as the physical facilities, but by the time Morse took over, the law school was on the last notch in its belt. The physical place had to first be addressed. The need to address the space took precedence over any ideological goal to change the place of Ole Miss Law.

As state appropriations could not meet the need, Morse looked elsewhere, and elsewhere, he was successful. Morse has been remembered as being “magnetic” and “dynamic.”²² These qualities made him appealing to funding agencies and left the lasting impression upon his students that he was a great leader. As far as securing funding, evidence shows that his magnetism did contribute to his success. Further, his grant proposals never appealed to race. Rather, they appealed to class and to politics. The Ford Foundation grant appealed to the position of the law school as the gateway to political success in Mississippi. The OEO grant appealed to providing services to destitute citizens while educating law students in the practice of the law.

However, when Porter Fortune ended the relationship with the legal aid program, it punctuated the fact that there existed a political limit on how much service the law school would be allowed to provide the state’s non-influential population, before the political force in the state would push back.²³ It is interesting that the members of the legislature expressed such disdain toward Morse regarding the legal program. The North Mississippi Rural Legal Services program operated in a very benign fashion compared to other legal programs in the nation that employed aggressive strategies in securing

clientele and using the programs to pursue social justice.²⁴ So, it appears that the aiding of a lower class of citizens itself had challenged the elitist identity of the state's leaders.

Next, Morse's student-recruiting efforts likely bothered many in the state, especially those within the political power structure. As with the legal aid program, the perception of recruiting was that Morse strictly identified potential black students. Once again, this was not the case, but Morse did actively pursue students from poor backgrounds who needed financial assistance to attend law school. This perception, in part, can be attributed directly to media outlets—both liberal and conservative. Liberal posts reported as a sign of progress that Morse was active in recruiting black students to the law school. In turn, the conservative press reported dismay for the same. What never entered into the press was that poor whites with scholastic aptitude for the law were entering into Ole Miss as well. The focus on race as the sole indicator of identity allowed for the evolution of the socioeconomic structure in the law school to go almost unnoticed. The evolution of that space and its associated place is evident today. In the 2013-14 academic year, 54.7% of the law school students at Ole Miss received scholarships and grants,²⁵ and according the law school's website, "most" of the students are receiving some form of financial aid.²⁶ This means that it has become typical for students who are not from wealthy backgrounds to attend law school. It also means that such is accepted.

Unlike Morse, who was motivated by his position of leadership, the finances of the law school, and a dedication to build a law school that would be identified nationally as one of prestige, the Yalies seem to have been motivated by other ideals. Justice, activism, and defiance contributed to the young professors' decisions while at Ole Miss Law. Two years after leaving Ole Miss, Michael Trister, recalling his time there,

indicated that the Yalies felt they had “nothing to lose. We were young, we had no children, we were making good money, we felt secure, and we were swept up in the romance of radicalism.”²⁷

Trister’s statement about radicalism punctuates the fact that public opinion of the South that was generated outside of the region tended to ignore the complexities of the South, instead distilling perceptions of Mississippians into a vial containing only race and ignorance. What a romantic idea it indeed is, that education about race can cure the South of its ills. While this disposition can be somewhat attributed to the fact that the Yalies were outsiders to the South, one cannot ignore the age of the Yalies during their time at Ole Miss. Much like the Freedom Summer workers, young students from prestigious schools were rebellious toward nearly any ideology to which they were able to identify as antiquated. Arriving in Mississippi enabled them to channel their rebellious tendencies to a cause outside of themselves, but they failed to realize that the space, which needed a shake-up in ideology, would have to undergo a shake-up in its identity. In order for this to happen, individual places would have to be challenged, and for that, Mississippians needed time—and much of it.

This obviously contributed to the notion that Yale equated to liberal, thus threatening to the state. During the crises faced by Murphy and Farley, their associations with Yale were reported, but no connections were ever made between their Yale association and their liberal leanings—despite the fact that Murphy’s dissertation, which he wrote to earn his degree from Yale, itself was a point of great contention. Later, when Morse’s successor was being chosen, most of the other potential candidates had also completed advanced study at Yale on a Sterling Fellowship. In fact, the law school had a

rich history of law professors and deans who had attended Yale. The fellowship itself was and remains an indicator of great intellectual capacity, dedication, and hard work for all who participated; thus, it garners prestige for both an individual and for any legal program that employs graduates of Yale. It was not until Michael Trister and George Strickler became deeply involved with the legal aid program that the connection to Yale became noxious.

Another interesting facet is that Yale did not escape the Civil Rights Era unscathed by controversy. Yet, this fact escaped Mississippians, who cared about outsiders only when they tried to invade. Mississippi was a closed society and was also closed off politically from the rest of the nation. In other words, Mississippians did not share a political place with outsiders. So, their mere presence in the space of Ole Miss acted upon the individual and collective identities and ideologies of the people.

The cases of the progressive-era Ole Miss Law school demonstrates that civil rights reform in educational institutions of the state were disruptive, not only to the racial norm in the state but to class relations as well, and these threatened the dominant force in maintaining the place that was the closed society—the political structure of the state. As Ole Miss held the position of the gateway into that structure, the Yalies presence was an eminent threat, not only to the gateway or the structure but also to the closed society.

When John Egerton wrote “Shake-Up at Ole Miss,” he had witnessed an evolution, but his perplexities regarding Ole Miss Law were due to the fact that the law school was still evolving. His “PM” was post-Meredith, but it was not post-place. In fact, it can be argued that it still is not. During the fall 1965 term, four of the law school’s total enrollment of 344 students were black.²⁸ The total minority composition (all non-whites)

of the law school student body in 2014 was 21.2%.²⁹ The total black enrollment in 2014 was 15.3%. In fact, the socioeconomic composition of Ole Miss Law has evolved far more than its racial composition.

Political Considerations and Ole Miss Law

The question of a political tradition in the South has been approached by many. Looking at a political history in the state of Mississippi alone reveals that the question is valid and worthy of discussion. The notion that the South once was unified on race is as erroneous as the assumption that the North was. Like the Democratic Party itself, the position on race was factionalized. This indicates that the place of the South that embodied a racial ideology was not reflective of a variety of individual places of its people. Given this, the factionalized politics of the South is not surprising.

Evident of the lack of unification in the south was the “Southern Manifesto.” The entire purpose in drafting the document was to unify southern political leaders in their actions of objection to the *Brown* decision in order to force northern politicians and the Supreme Court to reverse the decision. Yet, the document, its signers, and those who refused to sign drew much controversy. Texas Senator Lyndon B. Johnson was joined by Tennessee Senators Albert Gore and Estes Kefauver in a refusal to sign. In fact, Gore was singled out on the floor of the US Senate by Strom Thurmond, who poked Gore in the chest with the document.³⁰ Yet, Gore still refused. Additionally, twenty-two House southerners refused to sign the manifesto (one from Tennessee and Florida, three from North Carolina, and seventeen from Texas). Outside of the South, the political place of these men appeared to be moderate. In actuality, the political ideologies of these men greatly differed. Likewise, their opinions of race were disparate.

The US Supreme Court left the nation with little to go on after the *Brown* decision, and perhaps even less direction after handing down *Brown II*. The federal government was equally of no help. Despite an intimate relationship with the press, Eisenhower had little to say in regard to *Brown*, and the obscure remarks he did make led many to believe that he had been dissatisfied with the decision.³¹ Senator James Eastland, initially provided direction for Mississippians and the rest of the South. He advanced the connection between race and the threat of Communism, but by the time Mississippi's universities integrated, fears of Communism had subsided. By then, he was largely silent on the issue. This is reasonable, considering he had more important battles brewing in congress—Civil Rights legislation itself. He also had turned away from rhetoric, using instead his position on the judiciary committee of the senate to play the politics of race.

His correspondence with his constituents is reflective of this. In fact, just prior to Meredith's entrance, Governor Ross Barnett sent a telegram to the senator asking for his immediate presence in Oxford.³² Eastland did come to the state after the riots, but he kept a distance from the university. After being publically linked with the events, Eastland signed an Affidavit stating that he had no prior knowledge or involvement in Meredith's admission to Ole Miss.³³ He then kept a distance from Governor Barnett.

By the time Morse assumed the deanship at the university, the only vested interest the senator seemed to have in Ole Miss Law was in providing campus housing to war veterans and their spouses.³⁴ It seemed as if Murphy and Farley had been correct in their assumption that the State of Mississippi would have to abide by the law, but in fact, the leaders of the state, despite the stirrings of demagogues such as Eastland and Hooker and White, knew that they must act within the law. Else, there would have been no action in

the legislature or on the Board of Trustees to legally block admission to historically white institutions.

Within the state, Mississippians were subjected to a dizzying array of political dispositions toward race. Hugh L. White had been a vocal opponent of the *Brown* decision. J.P. Coleman's moderate stance on segregation sat in sharp contrast to Eastland's, but Coleman's race is not an issue because integration will never happen race rhetoric proved to be just that—rhetoric. His public actions were confusing, and when he ran for his second term in 1963, his platform for reelection was that during his first term, no major integration activities took place. This platform was viewed as weak by Mississippi voters, and Coleman lost the Democratic nomination to Paul B. Johnson, Jr.³⁵

Then, there was Ross Barnett, whose irresponsible leadership resulted in the deaths of two on the campus of Ole Miss. After, he took to the media but only for damage control. He no longer preached white supremacy, which left many confused and without direction. Without leadership, Mississippians had to appeal to personal politics and identities, and they too were in flux. The place that was Mississippi was evolving, even if it was to the despair of its people.

Administration

Farley, while controversial, ran the law school in a calm way. This may have lent to the notion during Morse's deanship that Farley had actually been a moderate, rather than the liberal he had been painted to be during his decanal appointment. Also, Farley ran the law school for more than a decade before first becoming viewed as liberal. His dedication to Mississippi and her ways had never been in question until the *Brown*

decision. Also, according to Murphy, Farley was a member of a chapter of the Citizens' Council.³⁶

Of course, changes were not only taking place in the law school. Politically, Ole Miss was at the top of a "pecking order,"³⁷ of the state's institutions that had been maintained by the Board of Trustees since its inception. This changed along with post-war shifts in educational role and function in the nation as well as with the expansion of the educational roles and functions of the university's sister institutions. It was during M.M. Roberts' stint on the Board that the traditional pecking order of the state's universities changed, as Mississippi Southern was granted university status, and with a new funding formula, almost immediately began to receive appropriates consummate with those of Ole Miss and Mississippi State.

The law school remained, however, the only public (and only accredited) law school in the state. Chancellor Williams dedicated himself to the fight against the establishment of "mediocrity"³⁸ and the comparison of itself to other institutions, but the law school had no stick within the state by which to measure itself. As graduation from the law school guaranteed admission to the State Bar, the only real measure of success for the law school was in the number of graduates who assumed roles in the state's political structure. The Farley years in the law school saw persistent increased enrollments, but they had been directly driven by the political dreams of law school hopefuls. This would begin to change during Morse's years as dean, as the individual places of Mississippians too changed.

By the time the funding formula was changed, the demographics and desires of first year law students had not changed, but the law school operated on a lean budget.

Instituting a formula for appropriations based upon a head count put the unit into the difficult position of needing to increase enrollment without the necessary resources to accomplish the growth, a problem not unusual to academic institutions well into the 21st Century. Unfortunate for the law school, in the later years of his deanship, Dean Farley's attention was not on searching for funding but on dealing with racial discord that affected the operations of the law school. This duty would be passed off to Josh Morse.

Funding the law school obviously was a primary objective of Josh Morse. He had little in the choice in the matter if the school were to survive. However, a closer look at Morse's actions reveals that he did have other motivations. Before he ever applied for the Ford Foundation grant, he worked closely with his colleagues on campus to expand the curriculum. He also did away with the practice of having local attorneys teach in the law school. These acts point to the fact that Morse not only wanted to keep the law school intact for Mississippians but also wanted the program to hold recognition beyond the state's borders. This desire to achieve a space of recognition as a preeminent law school required a change of the law school's local space, and that was not possible without disrupting the place that was Ole Miss Law.

Long before he began the active recruitment of blacks, Morse paid attention to another underserved population—women. Early on, he helped to formulate criteria for scholarships for female law students. While women had enjoyed a place in the law school for some time, they had not gained a place of prominence on campus or in practice, even though the state legislature had become coeducational in 1922. Then, after Morse began recruiting black students, he went a step further. He interacted with them. Whether Morse was socially aware or held a personal opinion that difference was just difference, it is

clear that used his position as dean to attend to marginalized people. While his primary motivations as a leader may have been to build a quality law school, his leadership indicates that he was no soldier in maintaining the status quo.

However, Josh Morse occupied a difficult space in the institution, as his position as dean held no real power in the overarching power structure of the state. Unfortunately, this impacted the relationship Morse came to have with the Yalies. Trister shared in an interview with John Egerton that by the spring of 1968, Morse had lost the trust of the Yalies.³⁹ It seems when trouble began to stir, Morse accepted that in his role as dean, it was his responsibility to handle the situation on behalf of the faculty members. Yet, by the time it became clear that he would be unable to handle much of anything, so much had happened, no path to recovery was left for Trister and the others. Trister claims that the environment in the law school never became hostile but that the law faculty itself became divided, which isolated the Yalies from the other faculty members.

Unlike Trister and Strickler, Luther McDougal accepted his marching orders along with the other rebels, although it appears that for him, it was too little, too late. McDougal had been praised by his fellow faculty members in his early years at Ole Miss, but by the time his name was in the running to replace Morse, he received an overwhelming vote of no confidence. This probably had much to do with the fact that McDougal had succumbed to the establishment. While it is reasonable that the law faculty was ready for harmonious times, they needed a leader who could navigate the complicated role of the dean.

There are overlaps in the leadership of Williams and of Fortune, and over the course of both administrations, the University of Mississippi experienced growth and

success, even in the face of adversity. However, there exists remarkable differences. First, Williams publically defended not only the law school but additionally the place of academic freedom in the academy, even before the university integrated. During the charges against the university, Williams took a position against Hooker and White that would have intimidated many university leaders. Attacks upon academic freedom were being waged on university campuses across the nation at the time, not only in the South. Fears of Communism caused mass speculation of human inquiry in all of its forms. In the South, these were intensified due to the perceived link between race and Communism that southern demagogues, such as Senator Jim Eastland, made and reinforced from positions of political power. Regardless of Williams' personal politics, in order to defend academic freedom, he had to defend all constructs associated with race, for in Mississippi, the two were impossible to separate. At the time, it would have been less intimidating to defend pornography, of the heterosexual variety at least, than to defend anything associated with black.

It does appear that Williams experienced fatigue toward the end of his administration in his dealings with the law school, as he seemed less willing to fight the Board for Murphy than he had in the past, but the Board composition had changed. Also, as the leader of the institution, Williams dealt with each and every problem that plagued Ole Miss, not only those of the law school. Just weeks after Murphy's exit from Oxford, Williams and the entire administrative structure of the university was neutered by Governor Ross Barnett during the Meredith Crisis.

Porter Fortune, on the other hand, only took aggressive action toward rectifying the problems in the law school under the threat of sanctions by accrediting bodies or

under judicial order, and even then, he often contradicted himself in his own defense, rather than defending the university and the academy in the way Williams had done before. It cannot be ignored that Fortune inherited at least some of the accreditation problems, as some of the events that eventually came under investigation by the AALS and the AAUP predated the Fortune administration. For both Morse and Ken Vinson had been subjected to salary freezes during Williams' chancellorship. Also, many of the speaker bans the AAUP cited in their published report occurred during the Williams administration.

To be fair, Fortune inherited a problem of perception. He entered into the chancellorship at a time when Ole Miss Law, the university, and the state and its people were all responding to and being affected by race relations. The place that was Ole Miss Law was in flux. The fluctuations were forcing the space that was Ole Miss Law to evolve, and it was not happening in isolation from the world.

What is peculiar is the fact that Fortune changed his explanations and lines of reasoning over time. Unfortunate for him, he kept detailed records. It is difficult to imagine that he suffered a lapse in memory. At best, he lied. During the joint investigations of the AALS and AAUP, Fortune admitted to having been subjected to political pressures. Yet, he maintained that his decisions were never influenced by political pressure, despite the fact his reasons for the actions he made did not always follow reason. However, during the Trister-Strickler lawsuit, he had testified under oath in a federal court that political pressure had no bearing on his administrative decisions. So, it is possible that he held that ground at the expense of reason so as to not perjure himself.

Also, Chancellor Fortune was never able to sufficiently explain the employment offers made to Trister and Strickler for the 1968-69 academic year, and neither Fortune nor the provost adequately addressed the attempted change in contract for the summer term. It is not clear why Trister and Strickler quit teaching their classes. It may have been to make a point or under the advice of counsel. Either way, it negatively impacted the students as well as the faculty members who had to step in to service their courses. While this may have not been the best decision for Trister and Strickler, for the chancellor to force such a decision upon a faculty member is, quite simply, bad leadership.

In looking at the leadership in the university in promoting and protecting academic freedom, The University of Mississippi has been no stranger to politically oriented infringements upon the academic freedom of its faculty and of its students. In fact, when the space of the exercise of academic freedom threatened the identity associated with the place of the state, academic freedom was not only infringed upon; it was disregarded. This disregard indicates that academic freedom did not fit into the political place of the state because its presence created the potential for a change in the ideology of the state. Reviewing the events that culminated in the sanctions imposed by the AALS and the AAUP resolves any question whether the actions by the accrediting bodies were justified. Even Tom Brady, a rabid segregationist and holding great fears of Communism, recognized infringement upon academic freedom when he saw it. Despite his strong position in racial relations, Brady held dear the principles of academic freedom.

Academic freedom holds an interesting position in higher education. In the space of higher education in the United States, it is a third-order construction that is put into place by its adoption by the individual institution. Individual institutions maintain the

space by allowing the practice of academic freedom until it is acted upon by a particular place—a single isolated event that threatens the space. These threats tend to not be aimed at the space itself. In other words, academic freedom is not the target for attack. Rather, academic freedom tends to be treated as expendable, as a casualty of war, and it has its own cavalry contained in a place different from itself. Academic freedom, then, is often defended from the outside. In the case of Ole Miss Law, the cavalry was the AAUP and AALS.

When Bill Murphy arrived in Oxford, there was a general sense in the academic community that they were there to build a great state university.⁴⁰ In order to do so, Murphy believed that teaching and publication were necessary and fell within a professor's "narrowest ambit of academic freedom."⁴¹ Exercising his academic freedom, he was critical of the way in which Chief Justice Warren had written the *Brown* opinion, but in the minds of many Mississippians, such details did not matter. Preserving the space of the state was more important than preserving a freedom that many viewed as expendable.

Murphy was merely teaching constitutional law the way that any other constitutional law professors in the country were teaching the subject. Doing otherwise would have gone against his professional ethics both as a lawyer and as an educator. It would have been in direct conflict with his identity. He believed that "the only thing that made it unusual was the *time* and the *place* [italics added]".⁴² Actually, after the Board cleared the university and its agents of the Hooker-White charges, many of those were satisfied and ready to move forward. It was mostly Hooker and White themselves who continued to fire at the university through the press, but even that did not last long.

Murphy believed that he never overstepped his academic freedom in either his teaching or in his publications. The only exception to which Murphy ever admitted was when he gave his “cult of crackpots” comment to the API. He claimed that he eventually felt a duty to “counteract erroneous propaganda with what he conceived to be the truth of things.”⁴³ However, he claimed that he never meant his statements to be activist. It was for that reason he could not identify with the violent reaction he received.⁴⁴ Though he did not identify himself as an activist, Murphy did believe that “a lot of students who went through my classes were able to exercise an ameliorating influence in their local racial situations.”⁴⁵ This suggests that he did, on some level, understand that he influenced racial relations, but if he had remained at Ole Miss, it would not have been to fight for principals of civil rights, but rather “to vindicate the principles of academic freedom and academic integrity.”⁴⁶

Unlike the case of Murphy, neither the AALS nor the AAUP made any investigation of Farley’s departure from the law school. This is interesting because Murphy never contacted either organization on his own behalf. Yet, multiple inquiries were made regarding the professor during his term at Ole Miss. It is also strange that Farley had been subjected to political interference while he was still a professor—one of many infringements that resulted in censure, and it took censure itself for members of the Board and the government to take remedial action. It is reasonable that Farley would have relied upon on the accrediting bodies for his own defense, but he did not.

When looking at the leadership of the heads of academic institutions, the comparison to lower division heads is difficult. While the two share the common goals of the institution, the challenges faced by each are not the same. However, the way these

men were viewed by their professors and students is revealing. Morse and Farley both were lauded for exhibiting strong leadership. As far as Chancellor Fortune is concerned, Trister and Strickler had their day in court. Williams, however was different. Farley and Murphy left without expressing any strong sentiments toward Chancellor Williams, but in a later interview with Bill Murphy, he made his opinion known when he called Williams “the most spineless, pusillanimous I’ve ever known in my life.”⁴⁷ According to Murphy, for J.D. Williams, “there wasn’t any ditch to die in.”⁴⁸ Williams was not willing to enter the space-place of extinction, and for those who had intimate access to Williams as a chancellor, Williams would forever be identified as a bad leader.

The Board of Trustees

As previously noted, a major turning point for the state’s public institutions, including the law school at Ole Miss was the change in composition of the Board of Trustees when Ross Barnett took office, and Barnett’s appointees would not roll off of the Board until 1972. While not always unified, the Barnett Board was attuned to the political place of the state. The most outspoken of them, M.M. Roberts, personified the white supremacist, state-rights southerner. His position on race in the state was best summed up in a letter he wrote after the court injunction allowed the speaking engagement with Charles Evers on the campus of Mississippi State, a letter that now gets mention in every scholarly writing about Roberts.⁴⁹ In it, he expressed not only dissatisfaction with what was happening in his state regarding race but also a deep despair, writing, “I hope he smelled like Negroes usually do. . . . Somehow I wish it were so that we could clean house for those who do not understand Mississippi and its way of life, but I guess this is expecting too much of this Board. . . . Somehow, I cannot believe

that Mississippi State is no longer a cow college. It is controlled by the influx of foreign ideologies, maybe city slickers.”⁵⁰ With such a refusal to give in to the laws of man that challenged everything he believed about race, it is not surprising that unrest for a time became a part of the place of Mississippi’s institutions, especially at Ole Miss. Roberts may have been a Mississippi Southern College man, but if there was one remaining space where the establishment should have remained, it was at Ole Miss—in his law school. He did not want the space or the place that was Ole Miss Law to evolve. His own identity was incompatible with such a change.

By the time that the Yalies came to Ole Miss, Roberts was president of the Board of Trustees, a board that had become adept at using its power to forestall, not only integration of colleges, but also the intrusion of other foreign ideologies. In fact, Board action during this time focused far less on education than on dealing with the race problem. Even Ross Barnett, who swore he would go to jail before allowing integration to take place in Mississippi,⁵¹ backed down after the integration of Ole Miss. The Board, however, did not have to back down. Allied with members of the state legislature and operating under a governor few took very seriously after the Meredith crisis, the Barnett Board operated as untouchables, even thwarting academic freedom mere months after the Fifth Circuit had supposedly disarmed them.

But to single out Roberts or any particular board member would be unfair. David Sansing’s chronicle of higher education in Mississippi reveals that the political leanings of Board appointees, and thus, dispositions toward—everything—have mimicked those of their appointers, even when their governors discontinued acting upon their personal identities, and the current story reinforces Sansing’s conclusions. In looking at the flux in

ideologies toward race of the governors who appointed Board members, it is not surprising that the Board of Trustees had a difficult time maintaining a focus on education itself, especially in the period of time from *Brown* throughout the Civil Rights Era.

The speaker ban illustrates this point well. Law school speakers proved to be controversial at times, but speakers in other parts of campus proved to be far more controversial. Though his reception was not warm, in 1965, a representative of the Citizens Council was an invited speaker at the law school.⁵² Thomas Tubb, who served on the Board of Trustees for nine years and was president of the body during the Meredith crisis, claimed that many decisions of the Board, including the speaker ban, were not made out of personal dispositions of individual board members but were meant to calm a hysterical public.⁵³ Others, he admitted were made due to governmental pressures upon the Board as well as pressure by the Citizens' Council. Like many decisions, the speaker regulations instituted by the Board were not made for any educational purpose but solely to pacify an angry majority. In retrospect, Tubb believed many Board decisions to be unwise, but he recognized that it was a different time.

Regardless the beliefs that individual members of the Board held in later years, it is clear the during the deanships of both Farley and Morse, the Board acted against the best interests of the university and the law school many times. The Board of Trustees occupies a peculiar place, much like the chancellor, where the members are meant to create a mediating environment. Yet, the Board is empowered under the authority of the state. Board members are appointed by the governor. Due to the rotational cycle of the Board, at any given point in time, the Board may be comprised by a group of individuals

who were appointed by a set of governors with competing tenets of governance, power, social structures, and of education itself. This is reflected upon closer inspection of recorded Board votes, which seldom are unanimous. This was especially true during era of the M.M. Roberts board.

In the place between the institution and the government, there lied a co-evolving space, a space that John Egerton would later identify as PM. As with other institutions within the state, the story of the progressive Ole Miss Law school reveals that administrators and teachers alike were willing to move forward on a new trajectory, regardless personal sentiments toward race (or perhaps, because their sentiments too were evolving). Graduates of the Yalie era at Ole Miss Law recall that the older faculty did not agree with everything that was going on in the law program, especially in regard to the legal aid program.⁵⁴ Yet, they contained their disagreements within the space of the law school itself and operated as a unified faculty.

Catharsis

According to Bass and DeVries, during the 1960s, Mississippi underwent a “catharsis” that “released the state psychologically.”⁵⁵ This is an oversimplification of the psychological state of the state, as the psychological state was reflective more of a variety cognitive considerations that over time caused an evolution of identity, rather than of any singular emotional release. Many were against integration, but law-abiding citizens believed that integration must be achieved—because it had become the law. The law-abiding citizens were joined by those who abhorred the treatment of Murphy and Farley. Then, when acts of violence, such as the deaths that occurred during the Meredith Crisis, began to take place, personal opinions shifted further. These people felt that the costs in

maintaining segregation were too great. In other words, the end did not justify the means. In any case, after integration was achieved in the state's universities, only the extreme right continued to act in defiance. Rather than fight, most began to figure out how to best cope, which is a very different psychological process than catharsis. The co-construction of space and place and race in the state was not a phenomenon of punctuated equilibrium but was more gradual. Because it is gradual, to identify a space-place that is different from a previous point in time requires an accumulation of identity changes that is sufficient to disrupt the domineering ideology beyond a critical point of its own maintenance.

In the case of Bill Murphy, the white residents of Oxford were very supportive of him, which illustrates another point. When a person has an intimate relationship with another, the psychological effect upon reason is great because the observer has gained experience, and experience is essential for changing perceptions about social categories. This may account for at least a part of the reason people began to move to the middle and adopt more liberal positions regarding race in higher education, as only the most cogent thinkers can stay aligned with an axis when connected interpersonally to a cause. Experience changes perspective, and in the case of political perspectives, it gives legitimacy to them.⁵⁶ These point to a component of race relations that is not well covered in the literature—the individual, as social movement typically is studied at a higher level of organization, but individuals not only had to change their minds about race, they had to act upon their newly constructed identities. They had to exert a force upon their individual places in order for a collective change to be perceived.

Murphy, like other residents of Oxford, experienced an evolution of identity over time. Though initially unhappy with the *Brown* decision based upon its legal merits, looking back, he believed that on some level he might have been happy with the decision. Murphy identified himself as “an emancipated southern white man in his own thinking.”⁵⁷ While Murphy downplayed his role, he interestingly identified himself as part of the “opposition group,”⁵⁸ a place in which he identified pride. In retrospect, Murphy felt as if he could have done more to advance race relations during his time at Ole Miss. At the time, race in and of itself was not an issue for Murphy. He was a professor of constitutional law, and he devoted himself to fulfilling his obligation as a professor.

Murphy, like so many had not reached his point of “catharsis” regarding race because he too was evolving. These perspectives, while perhaps transitional and entrenched in personal ethics, served to aid in the recognition that people are different and that difference should not matter. The recognition does not happen in an instant but as an accumulation of both experience and individual choices over time, which in turn aggregates in societal places.

Further, the case of the progressive era of Ole Miss Law makes it easy to see why space has taken precedent over place in historical work. Ideology is prescriptive. It informs people as to how things should be. Thus, people work to maintain *should be*, which in this case, was the *southern way of life*. This serves to strengthen the space itself. The southern way of life was preserved for so long because it was exercised, and it was exercised by whites and blacks alike. This means that identity change has to be

experienced by both whites and blacks, even if the experiences that contribute to identity change differ.

This also speaks to why educational spaces can be so very delicate, despite the fact that they are built upon massively accepted ideologies. Educational spaces are treated as those that will maintain themselves based upon the ideology alone. This view ignores the fact that work has to be put into maintaining the ideology itself in order for the space to remain intact. Academic freedom exists only in its exercise. Equality in education exists only in its exercise. Politics can surely facilitate the exercise of these, but, as demonstrated here, it can also impede.

Constructing a New Identity at Ole Miss Law

While it may be argued, especially in the Deep South, that people were generally unopposed to segregation, positions about integration greatly differed. Of course, there were segregation-at-all-costs Mississippians. Members of the Citizens' Council in the state remained active into the 1970s. While a prominent force in the maintenance of the status quo in the state for a long period of time, the Citizens' Council did not reflect a position of the people for its duration. There too were pragmatic social reformers, who believed that social progress was necessary for the progress of mankind itself. Most Mississippians, however, fell into a middle ground, or perhaps more accurate—moved into a middle place over time.

Next, class structure played a part in the positions toward segregation. Reconstruction had diminished the politically superior status of poor whites to blacks, and literacy exams that resulted from the 1890 Constitutional Convention further contributed to the blending of color in the lower classes in the state.⁵⁹ Poor whites gained

immensely from the oppression of blacks by eliminating competition for low-wage jobs, which helped to elevate their location in the class structure of the state. From this point-of-view, it is difficult to posit any moral position of this group regarding the separation of races, as their position seems to have been located in a social space, rather than an individual place, but a psychological need to hold a superior position in a social space is not out of question.

As racism is a reductionist practice that groups individuals solely on racial features,⁶⁰ members of a society who would otherwise cluster into a lower social class based upon other social factors, such as economics or education, become elevated socially by the fact that they did not cluster racially with a group that was the object of oppression. Socially, Jim Crow allowed poor whites of the state to continue to enjoy a comfortable level of superiority to blacks, regardless of education or income. An uneducated white remained socially superior, even to an educated black. Integration of public schools erased this line as swiftly as Abraham Lincoln's Emancipation Proclamation erased the state's tax base nearly a century before, and thrust poor whites into an unfamiliar place.

This was particularly true in Oxford, as the nearest black public institution was in Clarksdale. Though James Meredith paved the way to Oxford via Jackson, after he integrated the campus, black college hopefuls would not have to travel far in order to receive an education, and for law school hopefuls, distance was not a factor at all, as Ole Miss Law was the only public and accredited law school in Mississippi. Students did not have a choice of space in which to receive a legal education in Mississippi.

In 1966, there were six practicing black attorneys in the state who had earned law degrees—in a different place and space—outside of Mississippi and had gained admission to the bar by sitting for the exam.⁶¹ The integration of Ole Miss Law School would rapidly change the space of the law school by increasing this number. An added benefit for black law students was that state law invoked the right to direct admission to the bar, thus a direct path to practice. While inconceivable to some at the time, integration meant that black students would also enjoy a path into the state's political structure. In fact, in the 1966 issue of *Ebony* magazine featuring Ole Miss, a freshman student stated that his goal was to enter into state politics. Thus, entry to Ole Miss Law challenged both a social status quo but also the political structure of the state. As the political structure of the state was linked directly to its place, an increase in black attorneys would mean not only a change in the space of the state but also its place, as one cannot change without affecting the other.

Also, as noted earlier, the reaction to Morse's recruiting was often attributed to an issue of race, even though evidence points to the fact that Morse recruited without regard to race. In fact, the 1966 issue of *Ebony* magazine reported that the Ford Foundation grant had provided ninety new scholarships.⁶² The total black enrollment in the law school at the time of publication was only nine. However, he did recruit based upon on economic position in society. While he paid close attention to the academic potential of his recruits, scholarships were distributed based upon financial need. The issue for Morse was actually one of class and not race. However, it does mean that poor whites were in competition with blacks for scholarships and thus access to Ole Miss Law and its

privileges. The threat was far greater to them than to anyone in the state's political power structure, regardless of the perceptions at the time.

Experience, it seems, is vital to social change, and in agreement with Zinn's thesis, the more intimate yet massive the experience, the better the chance that the ideologies of social structures will evolve as identities shift. Reasonably, college campuses are prime locations for such an evolution to occur. However, students and faculty members at Ole Miss self-segregated despite the potential for an intimate experience. In fairness, the number of blacks on campus had not yet reached a number sufficient to qualify for "massive" encounters. Self-segregation, then, prevents the interactions necessary to achieve, at least a rapid, evolution of place. It does something else. Self-segregation serves to reinforce notions of individuals as members of an excluded group, which opponents of identity politics argue serve to distort group members own perceptions of the group to which they identify, thereby distorting their perceptions of their own experiences.⁶³

Opponents argue that this reinforces stereotyping of marginalized groups, but in fact, there is no reason to object to this, as groups have a tendency to hyperbolize stereotypes, rather than to combat them. Though a single student in protest would have fallen on deaf ears, when the BSU disrupted the Fulton Chapel in protest, they effectively sent the message that blacks *are* disruptive. Nevertheless, they achieved their goal and contributed to their on-campus emancipation. Moral considerations of stereotyping aside, there is no reason to reject identity politics due to the fact that stereotyping is an inherent component to the field, and stereotypes are also inherent to the construction of spaces and places in societies.

This is not meant to promote essentialism. The story of the progressive era of Ole Miss Law itself serves to counter this objection. Race itself was the object of the politics, but as identity politics are historically and politically contingent, over time, the criteria for inclusion into a category also can change. Murphy, Morse, and the Yalies (though it is unknown in regard to Farley) all came to be viewed as a part of the “opposition group,”⁶⁴ as Murphy called it. In other words, they eventually were included in the opposed group—black, even though they were not black. Thus, they too were marginalized within the context of the state. Their marginalization was based upon race but not upon their own racial identity. Rather, they were marginalized because they rejected conformity and identified with the minority influence—blacks. They were marginalized based upon the fact that their ideology did not fit the place of Mississippi.

This also reinforces a point by Richard D. Parker—essentialism is not just an idea but also is a practice.⁶⁵ In democratic politics, it does not matter if members of a group are essentially the same. It matters only if they are treated in the same way. Philosophers can continue to grapple with the idea, but researchers and policy-makers need a concept with practicality, and the realm of identity politics is useful for any analysis of a marginalized group.

The type of progressive-era reform that failed in the North, never fully made it to the South, but after the *Brown* decision, hints of a form of progressivism that proved to be lasting, despite massive resistance, began to fill the air. At Ole Miss Law, that progressive hint was Bill Murphy, and the fact that many identified the smell as “rotten”⁶⁶ suggests that Murphy’s stench is sufficient for locating change over time. At the time, there were no northern agitators present in the law school. Murphy was from

Memphis, but he ultimately concluded that despite the fact that racial attitudes in Memphis mirrored those in Mississippi, to Mississippians, Memphians were Yankees.⁶⁷ Murphy's attempt at humor captures an important point—Mississippi was not a member of *the* South. She and her closed society *were* the South, and everyone else was an outsider. To enter her space was a disruption to a place that had long been closed and was not easily opened.

After the passage of the Civil Rights Act of 1964, black voter registration actually decreased, and when northern progressives invaded the state in an attempt to correct the wrongs of the state, three of the most sensational murders of the century were committed.* Transient disruptions of the spaces of Mississippi had consequences that today continue to wrench the heart of the nation, but it was not the disruptions by outsiders that produced the force necessary to act upon the individual places of Mississippians. It was the murders themselves that contributed to changing opinions regarding race and thus their individual identities.

The strongest measures of reform in Mississippi made by whites could only be achieved by the South's own turncoats. Though Mississippians hated it, they were more receptive to one of their own, even if in the case of Murphy, he was a Memphian. Murphy had been called dangerous, and he was. He was threat against an establishment that disregarded any ideal, law, or person viewed to be in opposition. Bill Murphy fired the first shot into the fortress that was the closed society of Mississippi, and for that, he is remembered as a "trailblazer"⁶⁸

* Those of Andrew Goodman Michael Schwerner, and James Chaney.

Bob Farley, while a quieter force, aided the slow transition in the law school. For example, had Farley not appealed to Governor Barnett, Murphy's contract would have been terminated sooner. Though it took the threat of losing accreditation for the governor to act, it appears that Farley had found an effective weapon. Farley never attended to his own discomfort during the battle for academic freedom, even though he too was under fire, and for this reason, the intimate details of Farley's battle remain largely unknown. His primary concern was Bill Murphy. Murphy felt that the way Farley was treated was worse than the way he had been treated because Mississippi, effectively, had "banished"⁶⁹ one of its own. According to Murphy, what happened to Robert J. Farley, "was the rottenest, dirtiest thing that those people ever accomplished."⁷⁰

Then, there was Josh Morse. Morse, like Farley, stayed out of the media, but he spoke up when it counted, rightfully earning himself the epitaph, "courageous."⁷¹ Building a great law school with utter disregard for the establishment would have been courageous in any state, but in Mississippi, at that time, it was heroic. Morse would earn himself a place in the memories of his students and colleagues as the man whose leadership transformed the Ole Miss Law School.

Finally, though their time at Ole Miss was brief, the Yalies cannot be forgotten. The foot soldiers all have left Mississippi, but they left a legacy. The Yalies did not bring with them a difference in opinion. Evidence shows that opinions that ran counter to the norm already existed in the law school. What they brought was a belief that difference did not matter. Sure, they were young, and they were radical, at least by Mississippi's standards, but they arrived at the right place at the right time—right when Ole Miss Law was ready to be shaken up. The work of Michael Trister, George Strickler, and Luther

McDougal in the legal aid program not only helped the indigent residents of northern Mississippi, it brought attention to the fact that poverty law was an unattended need in the state.

What is more, though the NMRLS did not survive the shake-up at Ole Miss, the program is still in operation. Despite early opposition to the program by the State Bar, on its Board of Directors now sits fifteen bar members. The need for legal aid in the State of Mississippi remains high. As of 2010, 220,000 residents of the NMRLS service area were eligible for assistance,⁷² and so the battle continues.

The deanships of Farley and Morse have been somewhat clumped together in the minds of both Mississippians and outsiders. Yet, their leadership styles and personal motivations were remarkably different. In the end, they achieved very much the same—progressive legal education in the poorest state in the nation. The results of their actions cannot be discounted and should never be forgotten. Their presence in the law school impacted the thought of the students, the citizens of the state and, for better or for worse, the nation. Morse's actions, in particular, led to the provision of legal aid to blacks, and ultimately to the desegregation of the Holly Springs and Marshall County schools.

Though Murphy did not stay around to test the waters of his contract renewal for the year, evidence shows that reports of his ousting were accurate. He was driven away from Ole Miss Law. In a 1978 interview, Murphy stated that for a time after he left Ole Miss, he felt bitterness toward Governor Barnett, the Citizens' Council, the Board of Trustees, and in particular toward Chancellor Williams. Murphy believed that the viewpoint of the Citizen's Council was wrong but represented a majority viewpoint within the state.⁷³ He also claimed that he believed that Governor Ross Barnett "was not

only wrong in his views, but also “was not a very intelligent person,”⁷⁴ a belief held by many.

While he expressed disdain for these particular establishments and persons in Mississippi, he also stated that he never felt bitterness toward the State of Mississippi in general. In fact, he said that if the events in the law school had not happened, he believed that he would have remained. He and his family enjoyed their lives in Oxford, and through the entire ordeal, the residents of Oxford were kind to Murphy and his family. They even treated him better than he had been treated by many professors on campus.⁷⁵

Unlike Murphy, it appears that Bob Farley left Ole Miss without making any attempt to stay, as there is no written correspondence or memoranda that indicates such. According to Bill Murphy, fighting back was not Farley’s “style.” He “was not one to, to speak bitterly against people who were hurting him. He just, he accepted it. . . .”⁷⁶ Farley was the product of an older establishment. Personal politics aside, Farley accepted the actions of the Board and the legislature, very much in the same manner he accepted the *Brown* decision. He was a southern gentleman, and regarding Farley’s departure, Ole Miss history professor, James Silver wrote of him, “Gentleman that he was, Farley left quietly.”⁷⁷

When Morse passed away in 2012, the *New York Times* obituary stated that the terms of Morse’s departure from Ole Miss remained a mystery.⁷⁸ It is clear that after a period of salary freezes, Morse tendered a resignation. It is also known that like the family of Bill Murphy, Morse’s family was particularly burdened by the events that took place in Oxford during his deanship.⁷⁹ In fact, when Morse’s graduating class celebrated its fiftieth anniversary, he returned to Oxford unaccompanied by his wife.⁸⁰ While Morse

had made peace with Oxford, his wife had not. Twenty-nine years later, the wounds of having been forced from Oxford were not healed.

According to Morse, the residents of Oxford allowed the family to maintain its position in the social structure of the town with the caveat that a part of that structure was to be “pointed at”⁸¹ when their backs were turned. The color of his skin afforded him a position in the space of the white establishment, but he would never be allowed a comfortable place within, and that discomfort helped to shape him. His mere presence acted upon the establishment, affecting the ability of its people to resist a slow change in their perceptions of race in legal education in the state.

Like Murphy, Michael Trister too was bitter about his experience in Oxford.⁸² In addition to his own struggles, his wife was investigated by the Sovereignty Commission, whose investigators had infiltrated the NMRLS program.⁸³ Despite this, Trister, remained for a time to continue his work with the program before leaving the state. Today, he and George Strickler are lauded for their struggles in the state, not only for their work with the aid program, but also for opening the door in Mississippi to poverty lawyers.⁸⁴

Looking through a Scope

In closing, the stories of Farley, Murphy, Morse, and the Yalies presents the same challenges noted by C. Van Woodward more than two decades ago in analyzing events of the Second Reconstruction. Ole Miss Law, like the South itself, is “more complex than it generally appears; no matter what people see in it or think of it, there is usually more to it than meets the eye.”⁸⁵ These men were not unified in personal politics or ideologies, but their collective actions resulted in a paradigm shift in the law school that could not be ignored or denied. Through leadership, whether over the law school, in the individual

classroom, or in the community, these men contributed to a shift in identity of both the citizens of the law school as well as of the town of Oxford and the State of Mississippi.

If southern identity is but a part of a national identity, as suggested by Howard Zinn, then there was no better place on earth to put Zinn's thesis to the test than at Ole Miss Law, where the North and South collided in a single space. The veil of the "Southern Mystique" had been pulled back for the world to see, and the national press was on top of its reporting duty. A South that had been known mostly to northerners through the fictitious works of William Faulkner and Tennessee Williams, who treated the South and her ways as a character unto itself, sprang to life in the media during these tumultuous years at Ole Miss. At Ole Miss Law, the South stood next to her foes, first William Murphy and Bob Farley and later Josh Morse and the Yalies.

The media gave northerners access to the closed society, and they were free to decide whether Zinn's thesis held. Yet, they did not want to want to. Or, perhaps the lens of distance cannot help but distort the perception. No doubt the thesis is not without merit, but Zinn's thesis, like northern opinion, was far too simplistic to explain a space that had been constructed, resisted reconstruction, and seemingly had failed to evolve.

Interestingly, an article that could have been construed as positive public relations for the law school, especially in a period when Josh Morse had been heavily recruiting from outside of the state, was strongly rejected by Mississippians, and this does not appear to have stemmed from the fact that the students were from a different place. Rather, the anger seemed to be pointed more toward *Time* as an outside media establishment than toward the law school itself. Around the same time, reports were

coming out of the North of violent racial discord in northern urban cities such as Detroit and Chicago,^{*} and the hypocrisy was not lost on southerners.[†]

Mississippians were quick to point the finger back at the North. The correspondence files of James Eastland reveal thousands of letters written by angry Mississippians who believed that if the North could not handle its own racial affairs, it should stay out of the business of Ole Miss and the rest of the state. Whites were not the only ones who rejected this “salvation philosophy”⁸⁶ of northerners. Black SCOC workers were equally leery of the white students who came to the state to aid in voter registration drives. These perceptions of the North and of South of one another are present today. Regionalism is a place in American society with a trajectory that appears to have no end in sight. It will continue then to affect our constructions of race, and these will continue to impact our institutions of higher learning as they did over fifty years ago at Ole Miss Law.

In closing, Northerners have always been obsessed with the South, Mississippi, in particular. The paradox of one of the most progressive law schools in the nation being

^{*} Race-related violence in urban cities rivaled violence in the South in both size and in property destruction, personal injury, and death. Riots dated back as early as 1947 in Detroit. During the 1960s, major riots had occurred again in Detroit as well as Chicago, New York City, Philadelphia, Los Angeles, San Francisco, Cleveland, and Milwaukee.

[†] It also was not lost on scholars. The publication of Kenneth Clark’s *Dark Ghetto* in 1965 brought race relations in the North out of the closet, and Clark’s focus was not merely on white supremacy. He was unapologetic toward black leaders for abandoning justice in favor of politics (New York: Harper Collins, 1965).

located in the most reactionary state in the union, no doubt, was a cause to stop and pay attention. While there may be some question as to when *the* progressive era ended in the rest of the nation, it is clear that it did not even reach the South until after the *Brown* decision, and it neither was structured nor functioned like any form of northern progressivism. Even when northern progressives entered onto the battlefield of the South, their battle-cries were rejected.

Northerners also have had the tendency to presuppose that if progressive ideals are present in the South, they will simply, somehow catch on, as if the only problem in the South is that its people are ignorant. This view is problematic because it treats geographic location as a container that has no bearing upon the construction of the identities and ideologies of the people contained within the space. So, when the introduction of foreign ideologies into the South fails, the result serves to reinforce those perceptions of the South held by northerners. Even when identifiable revolutions in thought take place in the South, the North has a tendency to discount them, enabling northerners to maintain a social position of superiority and to resist an evolution in their own perceptions of the South. Thus, a cycle is perpetuated in the US where marginalized people are never adequately emancipated. This coupled with the perceptions of southerners of themselves as the rightful arbitrators of racial justice of the place that is their own, leads to an endless cycle of reconstructing the racist.

Because of this, the power of looking through a scope cannot be ignored. As a scope isolates the shooter from all environment but the target itself, so too have northerners been isolated positionally and spatially from their object of obsession. Thus, they tend to view the South and its ways very narrowly. They fail to account for the fact

that the progressive movement was born in the minds of northerners, but in the South, progressivism was built on the backs of men—men like Robert J. Farley, William Patrick Murphy, Joshua Morse, and all of the Yalies.

NOTES

Chapter I

1. Sansing, *Making Haste*, 148-54.
2. *Oliver Brown v. Board of Education of Topeka et. al*, 347 U.S. 483 (1954), (*Brown*).
3. *U.S. v. Fordice*, 505 U.S. 717 (1992).
4. The phrase “create a new racial identity,” is a reference to all of the activities that contribute to a change in how a population perceives a marginalized group within the population. In this instance, the object of identity is based upon race itself, even if other factors contribute to how a particular race is viewed, such as level of education or economic position in society. See Cressida Heyes, “Identity Politics.”
5. Landon, *UM School of Law*.
6. Egerton, “Shake-Up,” 24-29.
7. Landon, *UM School of Law*, chap. 1.
8. Egerton, “Shake Up,” 26.
9. Landon, *UM School of Law*, chap. 1.
10. “Teacher, Target of Attacks,” *New York Times*; “New Mood at Ole Miss,” *Time*; “New Misery at Ole Miss,” *Time*; “A New Dean at Ole Miss,” *Time*.
11. Egerton, “Shake-Up,” 28-29.
12. Landon, *UM School of Law*, Sansing, *UM History*.
13. Silver, *Closed Society*; Cohodas, *The Band Played Dixie*; McMillen, *The Citizens’ Council*; Eagles, *Price of Defiance*.
14. Woodward, “Unreported Crisis,” 82-89.

15. See Brinkley, "Problem of American Conservatism," 409-29; Andrew, *Other Side of the Sixties*; Brennan, *Turning Right in the Sixties*; Carter, *The Politics of Range*, 12; Kruse, *White Flight*, 10-11; and Crespino, *In Search of Another Country*.
16. See Eagles, introduction to *Southern Political Tradition*.
17. Sansing, *Making Haste Slowly*.
18. Sansing, *UM History*.
19. Landon, *UM School of Law*.
20. Cohodas, *The Band Played Dixie*.
21. Egerton, *Shades of Gray*.
22. Silver, *The Closed Society*.
23. Ibid., 155.
24. Roebuck and Murty, *Historically Black Colleges*.
25. Brooks and Stark, *Historically Black Colleges and Universities*.
26. Wallenstein, *Higher Education and Civil Rights*.
27. Ibid, 52.
28. Pratt, *We Shall Not Be Moved*; Clark, *The Schoolhouse Door*.
29. Shalibazz, *Advancing Democracy*.
30. Goldfield, *Black, White, and Southern*.
31. Woodward, *Strange Career of Jim Crow*.
32. Ibid, 5.
33. Zinn, *The Southern Mystique*.
34. Kluger, *Simple Justice*.
35. Patterson, *Brown v. Board of Education*.

36. McMillen, *The Citizens' Council*.
37. McMillen, *Dark Journey*.
38. General Laws of the State of Mississippi, Chapter 365, 520-524 (1956).
39. Faulkner, "To Stem the Tide."
40. Rowe-Sims, "Mississippi State Sovereignty Commission," 34-51.
41. Katagiri, *Mississippi State Sovereignty Commission*.
42. Walton, "Segregationist Spin."
43. Webb, "Cheap Trafficking in Human Misery," 249-250.
44. Tisdale, "Don't Stone Her," 183-184.
45. Williams, "Percy Greene," 66-68.
46. Roberts and Klibanoff, *The Race Beat*.
47. Davies, *The Press and Race*.
48. Weill, *In a Madhouse's Din*.
49. Ward, *Radio and the Struggle*.
50. Bailey, *Liberalism*.
51. Dittmer, *Local People*.
52. Payne, *I've Got the Light*, 1995.
53. Dennis, "The Illusion of Relevance," 229-271.
54. See Eagles, ed., *Southern Political Tradition*; Sherrill, *Gothic Politics*.
55. For essays on the major southern political figures who are considered to be demagogues, see Sherrill, *Gothic Politics*.
56. McMillen, *The Citizens' Council*.
57. Eagles, ed., *Southern Political Tradition*.

58. Key, *Southern Politics in State and Nation*.
59. Bartley and Graham, *Southern Politics and Second Reconstruction*.
60. Bass and Devries, *Transformation of Southern Politics*.
61. Crespino, *In Search of Another Country*.
62. Woods, *Black Struggle Red Scare*.
63. See endnote 55.
64. Bowers, *Spies of Mississippi*.
65. See endnote 55.
66. Katagiri, *Mississippi State Sovereignty Commission*.
67. Watts, *The Sovereignty Files*.
68. Irons, *Reconstituting Whiteness*.
69. See endnote 64.
70. Walker, *The Ghost of Jim Crow*.
71. Johnston, *I Rolled with Ross*.
72. Johnston, *Mississippi's Defiant Years*.
73. Klarman, *Jim Crow to Civil Rights*.
74. Ibid, 393.
75. Egerton, *Speak Now; Shades of Gray*.
76. Lassiter and Crespino, *The Myth of Southern Exceptionalism*.
77. Lassiter, "De Jure/De Facto Segregation," 25-48; Theoharis, "In Plain Sight," 49-73.
78. Crespino, "Mississippi as a Metaphor," 99-120; Wiese, "African-American Suburbanization," 234-261.
79. Brown and Webb, *Race in the American South*.

80. Agnew, "Space and Place."
81. Ibid., 87-88.
82. Agnew, "Space and Place," 316-330.
83. Howell and Prevenier, *From Reliable Sources*, 127-128.
84. James, "Race."
85. Agnew, "Space and Place," 328.
86. Murdoch, *Post-Structuralist Geography*.
87. Agnew, "Space and Place," 329-330.
88. Ibid., 316.
89. Disalle, "Newton's Philosophical Analysis," 33-56.
90. Casey, *The Fate of Place*.
91. Malzkorn, "Leibniz's Theory of Space."
92. Agnew, "Space and Place," 81-96.
93. Sack, *Homo Geographicus*.
94. Agnew, "Space and Place," 81-96.
95. Ibid.
96. Holt-Jensen, *Geography, History and Concepts*, 216-27.
97. Agnew, "Space and Place," 81-96.
98. Ibid.
99. Thrift, *Spatial Formations*.
100. Doel, *Poststructuralist Geographies*; "Unglunking Geography," 117-35;
 "Poststructuralist Geographies: The Essential Selection," 146-171; and Latham, "The
 Possibilities of Performance," 1901-6.

101. Crespino, "Mississippi as a Metaphor," 99-100.
102. Miyares and Airriess, *Contemporary Ethnic Geographies*.
103. Spears, "Landscapes and Ecologies of the US South."
104. History, as a discipline, has been greatly influenced by other disciplinary thoughts, especially those that originated in the other social sciences. Like other social scientists, historians link universals to particulars through the identification of shared relationships. For example, in the study of political philosophies, liberalism is a universal that can be identified in its shared belief among individual liberals. Unlike the focus of much scholarship in the social sciences, however, historians cannot understand a period of history by the isolation of particulars in their study. In other words, an individual liberal is only liberal in the context of his relation to others. Thus, historians seldom have a choice but to cope with multiple particulars simultaneously. Kyvig and Marty, *Nearby History*, 215.
105. Horn and Ritter, "Interdisciplinary History," 427-448. See also Howell and Prevenier, *From Reliable Sources*.
106. Tosh and Lang, *Pursuit of History*; Howell and Prevenier, *From Reliable Resources*.
107. Sreehdaran, *Historical Research Methodology*.
108. Golafshani, "Understanding Reliability and Validity," 597-607.
109. Berg, *Qualitative Research Methods*.
110. Tosh and Lang, *The Pursuit of History*.
111. Wineburg, "Historical Problem Solving," 73-87.
112. Ibid.
113. Tosh and Lang, *The Pursuit of History*, 205-206.

114. Kaestle, "Recent Methodological Developments," 119-132; See also Tosh and Lang, *The Pursuit of History*; Howell and Prevenier, *From Reliable Resources*.
115. Repko, *Interdisciplinary Research*.
116. Ibid., 152-159.
117. Mathews and Jones "Using Systems Thinking," 73-104.
118. Szostak, *Classifying Science*.
119. Repko, *Interdisciplinary Research*.
120. Horkheimer, *Between Philosophy*.
121. Ibid., 82.
122. Heyes, "Identity Politics."
123. Ibid.
124. Horkheimer, *Between Philosophy*.
125. See footnote 122.
126. Kruks, *Retrieving Experience*.
127. Ibid.
128. Ibid.
129. Heyes, "Identity Politics."
130. Geuss, *Idea of a Critical Theory*.
131. Tullos, "The Black Belt."
132. Wimberly and Morris, "Southern Spaces."
133. Washington, *Up From Slavery*.
134. Azaryahu and Foote, "Historical Space as Narrative Medium," 179-194.
135. Woodward, *Strange Career of Jim Crow*.

136. Lewis, *Massive Resistance*.
137. See Buenker, Burnham, and Crunden, *Progressivism*.
138. See Baker, *What Reconstruction Meant*.
139. Peirce, *The Deep South States of America*.
140. Lassila, "What's a Yalie?"
141. "New Mood at Ole Miss," *Time*.

Chapter II

1. Perman, *The Southern Political Tradition*, 3.
2. Brown and Webb, *Race in American South*, 188.
3. Bartley and Graham, *Southern Politics*, 82.
4. Cresswell, *Multiparty Politics in Mississippi*, 14.
5. Ibid.
6. Brown and Webb, *Race in American South*, 187.
7. Rowland, "A Mississippi View."
8. Perman, *Southern Political Tradition*, 19.
9. Henry Williams v. State of Mississippi, 170 U.S. 213 (1898).
10. Brown and Webb, *Race in American South*, 266.
11. Ibid., 263-64.
12. *To Secure These Rights*.
13. Ibid.
14. Thelin, *American Higher Education*, 269-271.
15. Ibid.
16. Perman, *Southern Political Tradition* 45.

17. Ibid.
18. Bartley and Graham, *Southern Politics*, 84.
19. Brown and Webb, *Race in American South*, 268.
20. Key, *Southern Politics in State and Nation*.
21. Ibid.
22. Brown and Webb, *Race in American South*, 268.
23. Bartley and Graham, *Southern Politics*, 71.
24. "To Pay Teachers More, Sillers May Endorse Sales Tax Increase," *Delta Democrat-Times*, March 17, 1958.
25. Bartley and Graham, *Southern Politics*, 72.
26. *Brown*
27. Ibid.
28. Johnston, *Mississippi's Defiant Years*, 12.
29. McMillen, *The Citizens' Council*, 19.
30. Johnston, *Mississippi's Defiant Years*, 15.
31. McMillen, *The Citizens' Council*, 138.
32. Ibid.
33. Crespino, *Mississippi and the Counterrevolution*.
34. Brown and Webb, *Race in American South*, 274.
35. Brady, "Black Monday."
36. Brown and Webb, *Race in American South*, 263.
37. U.S. Congress, *Congressional Record*, 84th Cong., 2nd sess., 1956, 102, pt. 4: 4515–16.

38. Ibid.
39. Brown and Webb, *Race in American South*, 281.
40. Lawson, *Running for Freedom*, 45.
41. Brown and Webb, *Race in American South*, 281.
42. Lawson, *Running for Freedom*, 60.
43. Caro, *Master of the Senate*, 2002.
44. Ibid.
45. Ibid.
46. Ibid.
47. For a thorough description, see Reeves, *Kennedy: Profile of Power*.
48. Ibid.
49. Ibid.
50. Sherrill, *Gothic Politics*, 204.
51. Ibid, 203.
52. "The South: The Authentic Voice," *Time*.
53. Johnston, *Mississippi's Defiant Years*, 16.
54. Bass and DeVries, *Transformation of Southern Politics*, 197.
55. Ibid, 196.
56. Patterson, *Brown v. Board*, 88.
57. Stennis to Farley, John C. Stennis Files (Stennis Files), 2 November 1949.
58. McMillian, *Citizens' Council*, 15-16.
59. Ibid., 16.
60. Bartley and Graham, *Southern Politics*, 74.

61. Bass and DeVries, *Transformation of Southern Politics*, 210.
62. Crespino, *In Search of Another Country*.
63. J.P. Coleman, interviewed by Orley B. Caudill, November 12, 1981 (Coleman, Interview).
64. Ibid.
65. Walker, *Ghost of Jim Crow*, 11.
66. "Designed to Inflamm," *Jackson Daily News*, September 2, 1955.
67. Journal of the House of Representatives of the State of Mississippi (JH), regular session, 65, 1956.
68. Katagiri, *Sovereignty Commission*, 249.
69. Walker, *Ghost of Jim Crow*, 12.
70. Coleman, Interview, 95.
71. As quoted in Sherrill, *Gothic Politics*, 193.
72. Crespino, *In Search of Another Country*.
73. Sherrill, *Gothic Politics*.
74. Coleman, Interview, 95
75. As quoted in Silver, *The Closed Society*, 50.
76. See endnote 66.
77. Katagiri, *Mississippi State Sovereignty Commission*.
78. William Winter, interview by Kate Medley, October 23, 2006 (Winter, Interview).
79. Ibid.
80. Katagiri, *Mississippi State Sovereignty Commission*, 6-8.
81. Ibid.

82. Winter, Interview, 6.
83. Erle Johnston, interview by Orley B. Caudill, July 30, 1980 (Johnston, Interview).
84. Ibid.
85. Ibid.
86. Katagiri, *Mississippi State Sovereignty Commission*, 97.
87. Ibid, 101.
88. Johnston, Interview, 63.
89. Bass and Devries, *Transformation of Southern Politics*, 196.
90. Ibid.
91. Ibid, 202.
92. Bartley and Graham, *Southern Politics*, 75.
93. Bass, *Transformation of Southern Politics*, 201.
94. Katagiri, *Mississippi State Sovereignty Commission*.
95. Bartley and Graham, *Southern Politics*, 120.
96. Ibid.
97. Bass and DeVries, *Transformation of Southern Politics*, 203.
98. Dittmer, *Local People*, 201.

Chapter III

1. Sansing, *UM History*, 27.
2. Sansing, *Making Haste*, 35.
3. Ibid.
4. Sansing, *UM History*, 54.
5. Ibid, 55.

6. Kronmann, *History of Yale Law*, 23.
7. Ibid.
8. Ibid.
9. Landon, *UM Law History*, chapt 2.
10. As quoted in Sansing, *UM History*, 69.
11. See endnote 9.
12. Ibid.
13. Sansing, *Making Haste Slowly*.
14. Landon, *UM Law History*, chapt. 2.
15. Sansing, *Making Haste Slowly*, 58.
16. See endnote 14.
17. Sansing, *Making Haste Slowly*.
18. Landon, *UM Law History*, chapt. 2.
19. Ibid.
20. Ibid.
21. Ibid.
22. Ibid.
23. Ibid.
24. Sansing, *Making Haste Slowly*, 80.
25. Landon, *UM Law History*.
26. Sansing, *Making Haste Slowly*, 81.
27. Landon, *UM Law History*, chapt. 3.
28. Ibid.

29. Sansing, *Making Haste Slowly*, 82.
30. Ibid.
31. See endnote 27.
32. Ibid.
33. Sansing, *UM History*.
34. Landon, *UM Law History*, chapt. 3.
35. Ibid.
36. Sansing, *UM History*, 224.
37. Landon, *UM Law History*, chapt. 3.
38. Ibid.
39. Ibid.
40. Ibid.
41. Landon, *UM Law History*, chapt. 4.
42. Ibid.
43. Ibid.
44. Sansing, *UM History*.
45. Landon, *UM Law History*, chapt. 4.
46. Ibid.
47. Sansing, *UM History*, 248.
48. Sansing, *Making Haste*, 115.
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